

Commission
on the Constitution

WRITTEN EVIDENCE

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THE SCOTTISH OFFICE
LORD ADVOCATE'S DEPARTMENT
AND THE CROWN OFFICE

LONDON
HER MAJESTY'S STATIONERY OFFICE
1969

COMMISSION ON THE CONSTITUTION

Terms of reference

To examine the present functions of the central legislature and government in relation to the several countries, nations and regions of the United Kingdom;

to consider, having regard to developments in local government organisation and in the administrative and other relationships between the various parts of the United Kingdom, and to the interests of the prosperity and good government of Our people under the Crown, whether any changes are desirable in those functions or otherwise in present constitutional and economic relationships;

to consider, also, whether any changes are desirable in the constitutional and economic relationships between the United Kingdom and the Channel Islands and the Isle of Man.

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THE CENTRAL GOVERNMENT OF SCOTLAND

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MEMORANDUM BY THE SCOTTISH OFFICE

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THE CENTRAL GOVERNMENT OF SCOTLAND

Memorandum by the Scottish Office

PART I

GENERAL

1. Part I of this Memorandum attempts a synoptic account of the present arrangements for the control and discharge in Scotland of the functions exercised by Central Government. These arrangements are by no means static, having come about through a process of evolution which is still going on. One or two of the more important recent developments are mentioned specially in the following paragraphs, while a fuller historical note is at Annex 1.

Parliamentary Control

2. Parliamentary control of all Central Government operations in Scotland is exercised by Parliament at Westminster. Scottish constituencies provide 71 of the 630 Members of the House of Commons, and they are full Members of the House for all purposes. While Second Reading of the most important or most controversial of Bills relating only to Scotland may be taken on the Floor of the House, and other Scottish business is dealt with there at other times (e.g. at Question times, in adjournment debates, on the two Supply Days commonly allotted by the Opposition to Scottish topics, and in private members' time) special arrangements also exist for the conduct of certain classes of Scottish business. The principal elements of these are as follows.

3. The Standing Orders of the House provide for the appointment of a Scottish Grand Committee, which includes all Members for Scottish constituencies, together with 10 to 15 others nominated with regard to the Party balance of the House. Any Bill certified by the Speaker as relating only to Scotland may be referred at the instance of the Government, unless 10 Members of the House object, to the Scottish Grand Committee for consideration in relation to its principle; and may thereafter be referred for Committee Stage consideration without further debate, unless 6 Members have given notice of an amendment to the motion for Second Reading. Report stage of a Bill that was considered in principle in the Scottish Grand Committee can be taken in that Committee, unless 20 Members object. Estimates for the Scottish Departments are referred for consideration in the Scottish Grand Committee on not more than 6 days in any Parliamentary session; and particular topics relating exclusively to Scotland may be referred to the Scottish Grand Committee for consideration on 2 such days unless at least 10 Members object.

4. The Standing Orders also provide for two Scottish Standing Committees. The first consists of at least 30 Members for Scottish constituencies, with up to 20 additional Members whether representing Scottish constituencies or not, all nominated in respect of each Bill coming before the Committee. The second has from 16 to 50 Members, of whom not fewer than 16 must represent Scottish constituencies. In practice the first of these Committees takes the Committee Stage of all important Scottish Bills, and occasionally in special cases Scottish parts of Great Britain Bills; while the second Committee, which is not invariably set up, is by practice confined to considering non-controversial Bills, for which purpose its membership is rarely much in excess of the minimum number.

5. The recent development of the system of Select Committees of the House now extends to the appointment, in February 1969 of a Select Committee on Scottish Affairs. This Committee is holding a number of its open sessions in Scotland, on a more extensive scale than hitherto adopted by any part of the machinery of Parliament except Parliamentary Commissioners concerned with certain stages of private legislation. Its field of operation covers all Government activities relating to Scotland, but initially it has concentrated on the economic development work described in paragraphs 16-17 and Part VI below.

6. Scottish representation in the House of Lords is provided partly by Peers (including Life Peers) of the United Kingdom who have special knowledge and experience of Scotland, and partly by the holders of pre-Union Scottish peerages. The Treaty of Union provided for the latter to elect 16 of their members to serve as Scottish Representative Peers, but this procedure was terminated by the Peerage Act, 1963, which enabled the holders of all Scottish peerages to take their seats in the House.

Ministerial Responsibilities

7. War Cabinets apart, the Secretary of State for Scotland has always been a member of the Cabinet. To assist him in dealing with matters requiring the attention of Ministers, he has the support of a Minister of State and three Parliamentary Under Secretaries of State. One of these four Ministers—the Minister of State from the creation of the office in 1951 until 1964, and one of the Parliamentary Under Secretaries of State since 1964—sits in the House of Lords and is able to spend a good deal of his time in Scotland. The other three are in the House of Commons.

8. The Secretary of State's senior official adviser over the whole range of his responsibilities is the Permanent Under Secretary of State. In view of the wide range and diverse character of the work, however, the Heads of the four executive departments mentioned in paragraph 9 below report direct to Ministers, and answer to the Public Accounts Committee of the House of Commons as Accounting Officers for their own departments. At the same time the Permanent Under Secretary of State keeps in close touch with the work of the departments, partly to help in ironing out any differences of view among them and partly to ensure that any relevant wider considerations are taken fully into account.

9. *Scottish Office Functions.* For the present purpose it is convenient to identify two main groups of Central Government functions in Scotland. One group is those for which the Secretary of State for Scotland is himself fully responsible to Parliament. These are with minor exceptions (e.g. forestry) administered through the Scottish Office, the main base of which is in Edinburgh. Apart from units of co-ordinating and common service staffs,* the Scottish Office comprises four executive departments. The functions of these departments and the aims and methods adopted in their administration, including arrangements for the conduct of research, are described in detail in Parts II-V of this Memorandum. The main fields covered are agriculture

*The Regional Development Division (see paragraph 16 below); the Scottish Statistical Office, which collects and publishes extensive economic and social statistics relating to Scotland; the Solicitor's Office, which provides legal advice and services to the Scottish Office add to certain other departments for their Scottish business; and the Scottish Information Office, which similarly provides information services and also acts as agent in Scotland for the Central Office of Information.

and fisheries; land use planning, with housing, roads, water supplies, and electricity; local passenger transport by sea, and since 1968 by road; education and social work services; health and welfare services, and services relating to law and order; and general matters affecting local authorities, including the administration of non-earmarked grants to the authorities and issues relating to the structure of local government.

10. References from the four executive departments are (with certain limited exceptions) made in the first place to one or other of the four supporting Ministers, according to a pattern of duties that is adjusted from time to time; and each of these Ministers has authority to dispose of those references they do not regard as calling for the Secretary of State's personal attention. They also deal with a large part of the Parliamentary work of concern to the Secretary of State, especially the Committee Stages of Bills affecting Scotland; and frequently represent him in discussions with Ministers of other Departments as well as on public occasions such as receiving deputations.

11. In addition to the Scottish Office, the Secretary of State has direct responsibility for the Forestry Commission (shared with the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales), for the Crown Estate (shared with the Chancellor of the Exchequer) and for the Land Commission (shared with the Minister of Housing and Local Government), and also for a number of minor Scottish departments. Notes of these responsibilities are at Annex 2 and Annex 3.

12. *The Scottish Law Officers.* Certain legal services affecting Scotland are carried on under the direction of the Lord Advocate with the Solicitor General for Scotland—the two Scottish Law Officers. Responsibility for these services does not rest with the Secretary of State, but in the absence from the House of Commons since 1964 of both Law Officers, the Secretary of State has been obliged to handle relevant Parliamentary business in that House. The present Lord Advocate recently entered the House of Lords as a Life Peer. Details of these services and their administration are given in a separate memorandum by the Lord Advocate's Department and the Crown Office.

13. *Other Functions.* The second main group of functions comprises those for which responsibility rests with a Minister whose jurisdiction extends to the whole of Great Britain, or sometimes the whole of the United Kingdom. The functions of certain of these Ministers, particularly in the economic sphere, are so relevant to the deliberations of the Commission that separate memoranda are being prepared by the Treasury, the Department of Employment and Productivity, the Department of Economic Affairs, the Board of Trade, the Ministry of Technology, the Ministry of Transport (who are concerned in Scotland with railways and ports), the Ministry of Power (concerned with steel, coal, gas, and oil), and the Post Office. A conspectus of the organisation of these Departments in Scotland is provided in Annex 4.

14. The relevant functions of other Ministers in this group are less significant in the present context, and for convenience notes about their responsibilities in Scotland are incorporated in Annex 5 to this Memorandum. The Departments covered in this way are the Foreign and Commonwealth Office, the Department of Health and Social Security (whose Scottish functions are confined to social security, excluding health and welfare), the Home Office, the Ministry of Defence, the Department of Education and Science, and the

Ministry of Agriculture, Fisheries and Food. Notes are also included in Annex 5 about the University Grants Committee, the Agricultural Research Council, the Medical Research Council, the Natural Environment Research Council, the Science Research Council, and the Social Services Research Council, all of which operate on a Great Britain basis under the aegis of the Secretary of State for Education and Science.

15. In so far as the Ministers mentioned in paragraphs 13-14 exercise functions in or relating to Scotland, their responsibilities are the same as in relation to other parts of Great Britain. But increasingly in recent years the Secretary of State has come to interest himself in any matter affecting Scotland, whether or not it comes within the scope of his statutory functions, and to accept a general concern for ensuring that adequate attention is paid by other Ministers to relevant Scottish interests. This is done through the various processes of interdepartmental contacts, whether informally at official or Ministerial level, or in official or Ministerial Committees, or in the Cabinet itself. While the Secretary of State lets it be known that he exercises this function, he does not seek to derogate from the primary responsibility of his colleagues or to interpose himself between them and those concerned in Scotland, or to speak for them in the House of Commons.

Economic Development

16. The Secretary of State's increasing involvement in problems of economic development led in 1964 to his being assigned more explicit (but non-statutory) responsibilities in this field. Within the Government's overall strategy for economic development, which at Great Britain level is co-ordinated by the Department of Economic Affairs, he is now recognised as responsible for taking the lead in the preparation of plans for economic development in Scotland, and for co-ordinating the execution of these plans. In this field the Secretary of State is serviced by the Regional Development Division of the Scottish Office. This is a non-executive unit, functionally independent of the four executive departments mentioned in paragraph 9 above, and reporting to the Secretary of State through the Permanent Under Secretary of State.

17. Both the formulation of plans and the co-ordination of their execution involve co-operative action in which Great Britain departments—especially the Board of Trade, the Ministry of Technology, and the Department of Employment and Productivity—as well as Scottish departments play major parts. In addition to the provision of external advice by the specially appointed Scottish Economic Planning Council (of which the Secretary of State himself is Chairman) and its associated local economic consultative groups, inter-departmental arrangements at official level have accordingly been made.

18. The principal piece of official machinery is the Scottish Economic Planning Board, which consists of representatives of all the departments—both Scottish and Great Britain—concerned, working under the direction of the Secretary of State (exercised through a Scottish Office Chairman) and in close consultation with the Scottish Economic Planning Council. The executive responsibilities of the separate departments still rest with these departments themselves; but the activities of the Board, reinforced as necessary by inter-Ministerial consultation, ensure that the separate departments carry out their responsibilities in such a way as to produce a coherent result. The way in which this machinery operates is described more fully in Part VI of this Memorandum.

Allocation of Resources to Scotland

19. Expenditure by the Scottish departments is controlled in the same way as expenditure by Whitehall departments. At one time certain elements of expenditure in Scotland were determined simply as a fixed fraction of the corresponding England and Wales allocation; and indeed the main educational services were allocated their "Goschen share" (eleven-eightieths of the figure for England and Wales) up to 1959. But subject to such degree of uniformity throughout Great Britain as Ministers consider necessary or expedient in matters of policy, allocations to Scottish departments are now fixed by reference to Scottish needs, and where Scottish circumstances differ from those in England and Wales the scale of provision differs accordingly.

20. The outstanding example of this is the current provision for housing, where there is proportionately greater need but also much less activity by private agencies in Scotland than in England and Wales. Accordingly the Scottish allocation covering housing activities in the public sector is about one-fifth of the allocation for England and Wales, as compared with the one-ninth that might be expected on a population basis. There is no arrangement for making off-setting reductions in Scottish allocations for other services, and no predetermined overall total for Scottish departments within which any special provision to meet special needs has to be contained.

21. The distribution throughout Great Britain of allocations to Whitehall departments is the responsibility of these departments themselves. So far as services of significance to economic development are concerned, the activities of the Scottish Economic Planning Board ensure that these decisions are taken with a full appreciation of any special Scottish needs. Where questions arise of special allocations for particular projects in Scotland in the sphere of Great Britain departments, it is not unusual for the Scottish Office to support the Great Britain department concerned, at official or Ministerial level, in seeking the necessary authority.

Staffing and Management

22. As regards problems of staffing and management, again the Scottish Office stands in the same relationship to the Civil Service Department as do the Whitehall departments. There is no automatic or predetermined relationship between staff numbers in Scottish departments and those in the corresponding English departments, staff ceilings being based on needs arising in relation to the forms of organisation adopted in Scotland. Excluding the prison service, the total numbers employed directly by the various departments of the Scottish Office at 1st January 1969 was almost 7,000.

23. Although the great majority are Scots and spend the whole of their working lives in Scotland, the staffs of the Scottish Office, like the staffs of Great Britain departments working in Scotland, form an integral part of the British Civil Service. The Scottish Office shares with Whitehall departments the provision of staff for tours of duty with the Civil Service Department, the Treasury, and the Cabinet Office; while in addition transfers of staff between the Scottish Office and Whitehall departments take place from time to time to mutual advantage. The Scottish Office also plays a part in the current work on the evolution of management techniques and of other aspects of civil service organisation following the Fulton Report.

PART II

DEPARTMENT OF AGRICULTURE AND FISHERIES FOR SCOTLAND

1. Agriculture uses about 17m acres of land, provides direct employment for about 80,000 persons and the value of its gross output is currently £220m or about 11 per cent of the U.K. agricultural output. Compared with other industries, farming is organised in relatively small-scale business units, though its structure as measured by size of business of full-time units compares very favourably with that in other countries. There are 55,000 agricultural holdings, of which about 25,000 are full-time commercial farms and account for 94 per cent of the agricultural output: the remainder are part-time holdings, of which about half are crofts in the Highlands and Islands. Scottish farming has become increasingly interdependent with the Scottish economy as a whole and supports a substantial amount of indirect employment in ancillary industries such as the manufacture of agricultural machinery and fertilisers, in food marketing and processing, etc.

2. At 31st December, 1968 the Scottish fishings fleet comprised 123 motor trawlers over 80 feet in length and 2,664 other (inshore) motor vessels, 90 vessels less overall than in 1967. It employed some 7,900 men full time and about 1,740 men (of whom 400 were crofter fishermen) part time, a decrease of 237 (130 full time) as compared with 1967. After allowing for Scottish landings in other parts of the U.K. and vice-versa, the value of the Scottish catch in 1968 was £22·7m out of a total U.K. catch of £62·1m (i.e. 37 per cent). Landings in Scotland from foreign fishing vessels in 1968 amounted to about £570,000 compared with £321,000 in 1967.

3. *General functions.* The Department of Agriculture and Fisheries for Scotland is concerned with the Secretary of State's responsibilities, both statutory and general, in relation to the well-being and development of agriculture and fisheries in Scotland. Some of these responsibilities relate to specific Scottish aspects, in other cases the Secretary of State acts in collaboration with the other Agricultural and Fisheries Ministers. The functions and activities of the Department reflect these different kinds of responsibility and fall broadly into three categories, of which the first two are agricultural. One of these is concerned with the preparation and implementation of economic measures designed to maintain and strengthen the agricultural industry as a whole. These emerge mainly through the Annual Reviews and the various subsidy schemes coming within the ambit of the Agricultural Support System. The Department not only has its part to play in the general working out of the Price Support arrangements but has, in particular, to ensure that proper account is taken of the special needs and conditions of Scottish agriculture. Under the second category, there are various responsibilities some of them deriving from the early history of agricultural administration in Scotland. These include land settlement and estate management, the regulation and development of crofting, and agricultural education, advisory services and research. Thirdly, the Secretary of State shares joint responsibility with the other Fisheries Ministers for policy affecting the U.K. fisheries generally and his statutory responsibilities and functions in both U.K. and specifically Scottish fishery matters.

4. The work of the Department is organised in eleven Divisions; seven deal with agricultural matters, two with fisheries and one each with establishment and finance. The majority of the staff are located in Edinburgh but there are

outstationed staff throughout Scotland dealing with agricultural and fisheries questions. These include executive staffs in area and fishery offices, and technical staffs (Inspectors, Lands Officers, Surveyors and Engineers) concerned with the administration of statutory schemes of assistance, management of land settlement and other estates and on the fisheries side, in liaison with the fishing industry, the collection of statistics. The total strength of D.A.F.S. at 1st April, 1969 of 3,235 comprised 2,760 non-industrial and 475 industrial staff (exclusive of 33 non-industrial and 18 industrial seasonal staff). The non-industrial staff comprise 35 in the administrative grade, 439 in the executive grades, 1,246 in the clerical and sub-clerical grades, 743 Professional and Technical staffs and 297 Scientific staffs. Included in these figures are 326 employed in the Scottish Office Computer Service (operated by D.A.F.S.) 82 in the Crofters Commission, and 11 in the Red Deer Commission.

5. *Advisory and Other Bodies.* The Department is assisted in the working out of its policies and administration by a number of advisory bodies. The Scottish Agricultural Advisory Council provides advice on general matters of policy, the Scottish Agricultural Improvement Council advises on the working out of programmes of research and development, while there are a number of bodies concerned with specific aspects of agriculture and fisheries. The Crofters Commission, appointed by the Secretary of State under the Crofters (Scotland) Acts 1955 and 1961, and financed by the Department, have powers and duties relating to the reorganisation, development and regulation of crofting. The Department also finances the Red Deer Commission, which is appointed by the Secretary of State under the Deer (Scotland) Act 1959, to conserve and control red deer, and advise on any matters relating thereto.

6. *Finance.* The total expenditure by the Department of Agriculture and Fisheries for Scotland on agriculture in 1967/68 was £51.1m and on fisheries £2.3m. A substantial part of the agricultural expenditure (£41.2m) was on agricultural support. There are, in addition, certain expenditures on agriculture and fisheries not directly borne on the D.A.F.S. Vote: these amounted in 1967/68 to £8.3m for agriculture and £0.8m for fisheries. The figures in the following table are inclusive of both D.A.F.S. and other such expenditures:—

Government Expenditure on Agriculture and Fisheries in Scotland and the United Kingdom

		Scotland			United Kingdom		
		£' million					
		Agriculture	Fisheries	Total	Agriculture	Fisheries	Total
1955/56	...	31.9	3.3	35.2	254.5	6.5	261.0
1960/61	...	47.3	6.6	53.9	308.6	12.6	321.2
1965/66	...	48.1	3.3	51.4	284.8	7.3	292.1
1967/68	...	59.4	3.1	62.5	343.7	6.7	350.2

7. *Information and Publicity.* The Department publishes annual reports, which are presented to Parliament, dealing respectively with agriculture and fisheries. It publishes annually Digests of Agricultural and Fisheries statistics and also an annual volume ("Scottish Agricultural Economics") of articles on the economic aspects of Scottish agriculture. Other publications include a quarterly magazine for farmers entitled "Scottish Agriculture", a quarterly bulletin for fishermen, and a series of bulletins and leaflets dealing with particular aspects of the agricultural and fishing industries. These include papers dealing with specific items of scientific research. The Department also participates in Exhibitions and Shows covering its field of interest; including exhibits mounted at the Royal Highland and Agricultural Society's annual show near Edinburgh and at a number of other agricultural and fishery exhibitions and shows.

Agricultural Support

8. It is the function of D.A.F.S. to advise the Secretary of State on the Scottish aspects of the determination of support policy for agriculture under the provisions of the Agriculture Acts 1947 and 1957, which he shares with the other Agricultural Ministers, viz. the Minister of Agriculture and the Home Secretary: and subsequently to administer on his behalf the detailed arrangements operated through grant and subsidy schemes. The central statistical and secretarial arrangements for the Annual Review are provided by the Ministry of Agriculture, Fisheries and Food. The function of the Department is (a) to ensure that proper account is taken in the preparation of the Review material of aspects in which Scottish agriculture is generally or particularly involved; and (b) that the Secretary of State is fully advised of the implications of alternative ranges of determinations on the agricultural industry and the general public in Scotland. In respect of most elements of the review the determinations are applicable uniformly on a U.K. basis, although there are some differences in the administrative arrangements for the various price guarantee and production grant schemes.

9. Under the Agriculture Acts of 1947 and 1957 the Agricultural Ministers are required to determine guaranteed prices for the main agricultural products. The agricultural support programme comprises:—

- (a) Price support, based essentially on deficiency payment schemes or other similar means, designed to ensure that the farmers collectively achieve the guarantee price.
- (b) A wide range of production grants designed, as appropriate, to supplement income (as in the case of the hill grants) or to encourage efficiency. Particularly important to Scottish agriculture are the hill grants (for hill cattle, sheep and winter keep), grants for fertilisers and lime, field drainage, calf subsidy, business management of small farms, the keeping of farm business records, and the ploughing up of difficult land.
- (c) Improvement grants for items of capital expenditure on farms and market gardens. The principal measure in this connection is the Farm Improvement Scheme (under which grants of 30 per cent are available for a wide range of buildings and other improvements on all classes of farm). Of particular significance to Scotland is the Hill Land Improvement Scheme under the Agriculture Act 1967 (this scheme is successor to earlier schemes under the Hill Farming and Livestock Rearing Acts). Under the Scheme grants of 50 per cent are available for a wide range of capital improvements on hill and upland farms.

Other provisions under the 1967 Act include schemes for the promotion of amalgamations of farms, the making of payments to owner/occupiers and tenants who give up occupation of holdings which are too small to be fully commercial, and grants for the encouragement of agricultural co-operative enterprises. For the purpose of arterial drainage, Scotland, unlike England and Wales, is not divided into District Board areas; Scotland, accordingly, has its own legislation on this subject, the most important provision being the 1958 Act under which major arterial schemes covering several properties can be authorised and assisted.

Plant Health and Pest Control

10. The Department administers the legislation which both prevents the introduction of harmful plant pests and diseases, and requires action to be taken by growers against pests and diseases already established. Of particular importance are the measures to improve the health quality of seed potatoes, Scotland being the main seed producing area for the United Kingdom. This plant health work requires collaboration with the Ministry of Agriculture, Fisheries and Food, with the countries abroad with which trade in plants or seeds is conducted and with the various international plant health organisations. At the Department's official Seed Testing Station in Edinburgh, checks are carried out on the correct description and purity of samples of seed, particularly seed potatoes and cereal seed, and official trials are carried out of new varieties of potatoes. Plant diseases are also investigated especially in connection with the Department's certification schemes for potatoes and cereals.

11. The Department is also responsible for the administration in Scotland of the U.K. legislation relating to destructive imported animals and agricultural pests as well as the control of indigenous pests such as rats, rabbits, foxes and wild birds. As regards indigenous pest control, of recent years this has constituted a major part of the work of the eleven Agricultural Executive Committees which in their present form are provided for under the Agriculture (Scotland) Act 1948.

Livestock Improvement and Animal Health

12. The Department is responsible for a number of measures designed to improve Scottish livestock. These include the licensing of bulls, boars and stallions, the control of artificial insemination and a number of measures aimed specifically at improvement of stock in the crofting counties.

13. The Royal Commission on Scottish Affairs recommended in 1954 that the responsibility of the Minister of Agriculture, Fisheries and Food for animal health work in Scotland should be transferred to the Secretary of State for Scotland. The Government accepted this recommendation, with the proviso that the Minister of Agriculture would retain operational control of the epidemic diseases among animals throughout Great Britain. Their decision was made effective by the Transfer of Functions (Animal Health) Order 1955. Since 1955 the responsibility for policy on animal diseases, health and welfare in Great Britain has been discharged jointly by the Minister of Agriculture and the Secretary of State and close liaison is maintained between their Departments.

14. In broad terms D.A.F.S. performs in Scotland the functions carried out in England and Wales by the Animal Health Divisions of the Ministry of Agriculture, Fisheries and Food, except that M.A.F.F. deals on a Great Britain basis with the outbreaks of epizootic diseases such as foot and mouth disease and swine fever. Thus the Department is responsible in Scotland for dealing with bovine tuberculosis and brucellosis (contagious abortion), and payment of compensation for reactors slaughtered under Tuberculosis legislation and under the Voluntary Brucellosis Scheme is borne on the D.A.F.S. Vote. D.A.F.S. is also responsible for the export quarantine station in Glasgow and undertakes the administration in Scotland of various schemes operated by the Agricultural Departments on a Great Britain basis, and for other matters such as animal welfare and control of export and import of animals and animal products. The Minister of Agriculture is responsible for the government veterinary service throughout Great Britain, including appointments and

salary, with the aim of maintaining an integrated and highly mobile veterinary staff, experienced in diagnosing epidemic diseases, to deal with outbreaks wherever they occur. The Minister's veterinary staff stationed in Scotland are under the supervision of the Director of Field Services who is available to the Secretary of State to provide professional advice and services that may be required.

Estate Management and Land Use

15. The Department manages 174 smallholdings and crofting estates owned by the Secretary of State. The majority of these estates were acquired between 1919 and 1939 and no new holdings or crofts have been formed for some years. The estates extend to over 835,000 acres and comprise some 3,500 smallholdings. About half of these are crofts in the seven crofting counties and include large areas of rough grazings. The present policy is to amalgamate any of the smaller units which become vacant in order to make larger and more viable units. The Ministry of Agriculture, Fisheries and Food do not manage any comparable extensive estates, the arrangement south of the Border being that smallholdings are mainly owned by local authorities and most of those owned by the Ministry are managed by the Land Settlement Association.

16. The Department also manages some 390,000 acres acquired under the Forestry Acts. About two-thirds of this area comprises let farms and the balance is farmed by the Department until it is required by the Forestry Commission for planting. The Ministry of Agriculture similarly manages about 40,000 acres of land acquired for afforestation in England and Wales.

17. The Department also advises the Secretary of State on the agricultural implications of proposed changes of land use under the Planning Acts or in connection with afforestation, and has general functions under the Agricultural Holdings (Scotland) Act 1949 in relation to the landlord/tenant relationship on agricultural holdings. In their consideration of proposed changes of land use under the Planning Acts the Department takes the Agricultural Executive Committees into consultation.

Crofting

18. Crofting is confined to seven counties in the Highlands and Islands of Scotland, Shetland, Orkney, Caithness, Sutherland, Ross and Cromarty, Inverness and Argyll—and today there are some 19,000 crofts and some 17,000 crofters. The majority of crofts are to be found in the islands of the west and north coasts and along the fringes of the west and north mainland. The crofting population is approximately 60,000 out of a total population in these counties of 276,000. About 2m acres (of which 1½m acres are common grazings) out of a total of 9m acres in the crofting counties are held on crofting tenure.

19. The first crofting legislation was the Crofters Holdings (Scotland) Act 1886. Among other things this Act gave security of tenure to the crofters, established fair rents and compensation at outgo for improvements carried out by the crofter. Under this Act the first Crofters Commission was appointed. Under the Small Landholders (Scotland) Act 1911 the Crofters Commission was replaced by the Scottish Land Court (which was set up to deal with the legal issues) and the Board of Agriculture appointed under this Act took over the work of the Congested Districts Board and dealt with land settlement and other allied matters. Following the report of the Royal Commission of Inquiry

into Crofting the Crofters (Scotland) Act was passed in 1955 and under it a new Crofters Commission was established. The functions of the Commission which is financed by the Department, are to reorganise, develop and regulate crofting. The Commission consists of a full-time Chairman and seven part-time Commissioners.

20. The Act of 1955 with the amending Act of 1961 gives power for the making of grants and loans to develop agricultural production on crofts and other like units in these counties. Schemes for these purposes are administered by the Crofters Commission on behalf of the Secretary of State insofar as they relate to crofts. The actual payments under the crofting grants and loans schemes are made by the Department. The Department also administers schemes of building grants and/or loans to crofters for housing and steading buildings, and to owner/occupiers of holdings broadly comparable in size to crofts in the crofting counties, for steading buildings, and arranges the supply of building material for these purposes.

Wages, Labour and Safety

21. Under the Agricultural Wages (Scotland) Act 1949 (which replaced an earlier Act of 1937) the Scottish Agricultural Wages Board, an autonomous body, makes statutory orders fixing minimum wage rates for various classes of agricultural workers in Scotland. The Department provides secretarial services for the Board and its District Wages Committees. Both sides of industry are represented on these bodies, to which the Secretary of State appoints independent members (including the Board's Chairman). The Department's Wages Inspectorate visits between 2,000 and 3,000 farms annually, checking wages payments and investigating complaints. This Inspectorate also undertakes enforcement work under the Agriculture (Poisonous Substances) Act 1952 and the Agriculture (Safety, Health and Welfare Provisions) Act 1956 which are concerned with the protection of workers using certain toxic chemicals and the safety of workers using vehicles, machinery or implements. The Department provides advice and undertakes publicity with regard to the safety, health and welfare provisions. Questions relating to the conditions of service, health and welfare of agricultural workers referred from such bodies as the International Labour Office are considered and liaison is maintained with other Departments concerned with these subjects.

22. Under the Selective Employment Payments Act 1966 the Department makes refunds of tax to agricultural, horticultural and forestry employers in Scotland.

Agricultural Education, Advisory Services and Research

23. In contrast to the arrangements in England and Wales, where the agricultural advisory service is administered directly by the Ministry of Agriculture, Fisheries and Food, the service in Scotland is undertaken by the three Agricultural Colleges, located at Glasgow, Edinburgh and Aberdeen. These Colleges have also their responsibility (in close association with the Universities) for agricultural education. It is in this conjunction of the education, advisory and development functions that the Scottish pattern differs from that south of the Border. The Department provides virtually all of the expenditure of the three Colleges and accordingly has close ties with the Colleges in regard to both general policy planning and specific projects. The Colleges and the Department are at present in process of consultation about possible ways of achieving more effective co-ordination of policies and programmes and the more economical use of financial and other resources.

24. The Secretary of State also has direct financial and Parliamentary responsibility for agricultural research in Scotland. This helps the Department in implementing research policy to take account of the need for applying research results through development and experiment (chiefly by the Colleges) and through the provision of an effective service of advice to farmers. There are eight agricultural research institutes in Scotland which are administered by the Department, subject to advice from the Agricultural Research Council on scientific programmes, staff, equipment etc. The A.R.C. also has two research institutes and two research units in Scotland. Effective consultation between the Department and the A.R.C. is maintained, particularly by representation from the Department on the A.R.C. itself and on its standing and technical committees. (See also Annex 6.)

25. The Scottish Agricultural Improvement Council advises on problems concerning agriculture and horticulture which appear to call for scientific investigation, and to ensure that promising results of research and new technical methods are incorporated into commercial farming practice.

26. Responsibility for the Royal Botanic Garden, Edinburgh, was transferred on 1st April, 1969 from the Ministry of Public Building and Works to the Department, although the Ministry will remain responsible for the provision and maintenance of buildings.

Food and Food Processing

27. Since the food and drink manufacturing and distributive trades are organised mainly on a U.K. basis the Ministry of Agriculture, Fisheries and Food act as production department for the food and drink industry throughout the U.K. They are also responsible throughout the U.K. for surveillance of food and drink prices. The Department is, however, brought in when matters of particular moment to Scotland arise in these fields. There is a growing interest in the development and expansion of the food processing industry and the Department has taken recent steps to stimulate interest in such development in Scotland.

WORK OF DEPARTMENT—FISHERIES

General Functions

28. The Department's fisheries functions are broadly similar to those exercised in England and Wales by the Ministry of Agriculture, Fisheries and Food and include: the general administration in Scotland of the statutes referring to the white fish, herring and shellfish fisheries; provision of subsidy and other assistance to the industry; carrying out scientific investigations relating to fish and the fisheries; protecting the fisheries and enforcing byelaws and other regulations; assisting the construction, improvement and repair of fishery harbours and operating dredgers for their maintenance; and exercising general supervision over salmon fisheries.

29. The Department has, however, a number of specific functions, which present some differences of emphasis and which arise from the earlier history mentioned in Annex 1 and also the fact that the Scottish fishing effort, unlike that in England and Wales, is concentrated predominantly in the inshore fleet (vessels of 80 feet length or less); originally, this was largely a herring fleet but increasingly over the years it has gone over to white fish (now by far the most important catch) and to shellfish (the landed value of which surpassed for the first time in 1968 that of the herring catch). Thus, Scotland has her own system of fishery byelaws and regulations, the Department, unlike M.A.F.F., operates

its own enforcement service, and the financial help provided for inshore harbours is on a more substantial scale. A further difference is that there are no local Sea Fisheries Committees in Scotland. The office of Fisheries Secretary in the Department (held by an Under-Secretary) involves a number of statutory functions relating to the Scottish fisheries.

30. The Department, like the Ministry of Agriculture, Fisheries and Food maintains liaison with the White Fish Authority, with the Authority's Committee for Scotland and Northern Ireland, and with the Herring Industry Board (most of whose responsibilities and functions concern Scottish fishermen mostly, though not exclusively). The Chairmen and members of these statutory bodies are appointed jointly by the Fisheries Ministers and their salaries are paid from Exchequer funds. The Ministers have general (joint) responsibility for their operations, included the allocation by the Authority and the Board of Exchequer funds providing for grants and loans to assist in the building, renovating and re-equipping of fishing vessels. This expenditure is borne, as regards the White Fish Authority, on the Ministry's Vote, and as regards the Herring Industry Board's expenditure on this Department's Vote. Other operations by the two bodies are financed by statutory levies on fish landings.

31. The Department is also concerned with international Fishery questions and negotiations relating to them and is generally represented at meetings of the international negotiating bodies.

Specific Functions

32. *Marine Research.* The Department maintains a Marine Laboratory at Aberdeen and a fleet of six research vessels. The research relates both to the stocks of commercially important fish and to the design and operation of fishing gear. Liaison is maintained with the corresponding laboratory of the Ministry of Agriculture, Fisheries and Food, and the research is co-ordinated by the Natural Environment Research Council. The Department's Fresh-water Fisheries Laboratory at Pitlochry is concerned mainly with salmon and sea trout.

33. *Regulation.* There is a complex structure of byelaws and other regulations and to enforce these the Department operates eight fishery cruisers: they also enforce conservation provisions and co-operate with Naval vessels in policing the fishery limits against foreign vessels. The system of regulations and of enforcement is at present under review by an independent Committee.

34. *Piers and Harbours.* The Department makes grants (normally 75 per cent of the cost involved) and/or loans to assist harbour authorities in modernising the many small fishery harbours around the Scottish coast. Recently, the scope of assistance has been extended, though at a lower rate, to the fishery sections of large commercial harbours, Aberdeen being the main example in Scotland. The Department also operates two dredgers which are hired out, often at a reduced charge, to the smaller harbour authorities. In addition the Department makes grants (also usually at 75 per cent) for the construction or improvement of piers required for transport and communications in the seven crofting counties.

35. *Salmon and Trout.* The Secretary of State has a statutory duty under the Salmon Fisheries (Scotland) Acts to exercise general supervision over

salmon fisheries. This supervision is exercised by the Department but by statute is without prejudice to the rights and duties of local District Salmon Fishery Boards to whom local administration is mainly entrusted. The Scottish salmon catch, worth about £2m annually, is five or six times that in England and Wales. Wide-ranging changes in the law and administration of salmon and trout fisheries in Scotland recommended by the Hunter Committee are under consideration.

PART III

SCOTTISH DEVELOPMENT DEPARTMENT

General

1. The Scottish Development Department was created in June, 1962, bringing together those of the Secretary of State's functions most closely concerned with the physical and environmental development of Scotland which were previously discharged through the Scottish Home Department and the Department of Health for Scotland. The Department's area of responsibility originally covered the general structure of local authority administration and finance; land use planning and the development of New Towns; housing, roads and other environmental services such as water and electricity supply, sewerage and clean air; and tourism and the protection of amenity: to these were added in 1968 responsibilities in relation to passenger transport by road and sea and to rural and Highlands development. Thus there is now concentrated in a single administrative unit the machinery for dealing in Scotland with a number of related subjects which are distributed in England between the Ministry of Housing and Local Government, the Ministry of Transport, the Ministry of Power, and the Board of Trade. In formulating policy proposals, and planning for the execution of policy, the Scottish Development Department is involved in close consultation with these departments, as well as with the other Scottish departments and the Whitehall departments, such as the Treasury and the Department of Employment and Productivity, whose responsibilities include Scotland. (Policy proposals affecting economic development which concern other Departments are discussed in the Scottish Economic Planning Board, see PART VI.)

2. In almost all of these fields the Secretary of State's statutory functions do not involve the Department in direct day-to-day administration of services. The Department, under the Secretary of State's instructions, administers the rate support grant to local authorities, and other grants and subsidies to specific services and agencies; it determines the framework within which the various agencies and authorities operate; it prescribes standards on which they base their activities; and it guides, encourages and co-ordinates the work of agencies and authorities in providing local services and in exercising their statutory responsibilities. It is the Department's duty to try to ensure that all the activities for which it bears some responsibility are harmonised, and complement each other in contributing towards achieving such Government objectives as the improvement of the physical and social environment, economic expansion and the redeployment of population.

3. At 1st April, 1969 of the number of non-industrial staff in the Department was 930. This included 269 members of the professional and technical grades (mainly planners, engineers, architects, quantity surveyors, research officers and chemical inspectors), some of whom provide services for the Scottish Education Department, the Scottish Home and Health Department and the Department of Agriculture and Fisheries for Scotland. The number of staff in the administrative grade was 39. In addition the Department was employing 22 industrial staff.

4. The Department's annual Votes provide for the disbursement of some £290m, and it is also responsible for advances each year of some £100m in loans.

5. The Department publishes an annual report on its activities. Each year it also publishes returns of local government financial statistics, rates and rateable values, and rents of local authority houses; and each quarter a statistical housing return.

Local Government

6. The Department bears the central responsibility for general local government administration. It has been engaged recently in discussions with the local authority associations about councils' staffing problems and the management of their affairs; and it will undertake the preparatory work for the consideration by Government of the forthcoming report of the Royal Commission on the structure of local government in Scotland. On the Secretary of State's behalf the Department deals with such routine matters as councillors' allowances, the conditions of employment of certain chief officers, and byelaws.

7. On finance the Department is responsible for calculating and paying the rate support grants and, jointly with the Scottish Home and Health and Scottish Education Departments, for the negotiations at official level leading to the determination of their amount. The rate support grants provide 90 per cent of the Government assistance to local authorities (excluding housing subsidies), the aggregate of which is fixed as a percentage, increasing yearly, of the authorities' total current expenditure excluding requisitioned expenditure and contributions to a housing revenue or trading account. The Department advises the Secretary of State on the appointment of auditors of local authorities' accounts, and exercises on his behalf the statutory control over authorities' borrowing proposals.

8. Valuation for rating is a matter for local assessors, but the Department maintains a general oversight of the working of the system and services the Scottish Valuation Advisory Council.

Town and Country Planning

9. Land use planning is essential to the integrated development of the country and in this field the Department's function is two-fold. First, it assesses overall development trends and attempts to ensure the best use of land throughout Scotland by encouraging co-operation and consultation among the authorities affected. Secondly, it is responsible for planning standards and for keeping under review the planning procedures on which are based the work of local planning authorities, who have the immediate responsibility for determining and controlling land use in their areas: they are required to prepare development plans for their areas, based on comprehensive surveys, which may be amended at any time and must be reviewed every five years. Development plans, amendments and quinquennial review proposals have to be submitted for approval, modification or rejection by the Secretary of State.

10. The Department is involved both in the Secretary of State's positive and creative planning activities and in his regulatory and appellate functions. The latter form the historical and statutory core of land use planning. Appeals made to the Secretary of State against the decisions by local authorities to refuse or to place conditions on individual applications to them for planning permission number over 300 each year; about half of these are withdrawn before decision and the remainder involve public local inquiries before a reporter appointed by the Secretary of State. Appeals are also dealt with against local

planning authorities' proposals, which must themselves be confirmed by the Secretary of State, to acquire land compulsorily to secure its use in accordance with its development plan zoning. In 1968 there were also 63 appeals against refusal of consent by local planning authorities for the display of advertisements. Application must be made to the Department for the Secretary of State's agreement to orders enabling local planning authorities to revoke planning permission or to discontinue established uses of land. In a directing capacity the Secretary of State may require a local authority to add to or amend its development plan, and has power to call in planning applications of special importance for decision by himself instead of by the local planning authority.

11. In the past few years the Department, in collaboration with the Regional Development Division, has become increasingly concerned with the examination of the future for particular sub-regions, covering the areas of several planning authorities, and in the preparation, by consultants, the Universities or the Department itself, of plans for their future physical and economic development. Such plans have been published for the Greater Livingston area, the Grangemouth-Falkirk area, the Borders and the North-East, and a similar survey of the Tayside region is in preparation; transportation studies have been produced for the Greater Glasgow and the Greater Edinburgh areas. In the Clyde Valley area the Department has participated in commissioning the Clyde Estuary Development Study and has co-operated with the local planning authorities in studying the future structure of Renfrewshire, Lanarkshire and Ayrshire.

12. The Department and local authorities work together and in consultation with the various interested societies in exercising their respective powers to preserve and enhance the amenity of town and countryside. In order to make their areas more attractive to industry, local authorities receive grant from the Department on approved schemes for the rehabilitation of derelict land. Local authorities themselves have powers to provide industrial sites and to erect factories for letting or for sale, individual projects requiring the approval of the Secretary of State. Grant is also available to authorities for approved schemes for comprehensive development or redevelopment of urban areas. On behalf of the Secretary of State the Department lists buildings of special architectural or historic interest throughout Scotland and can, with the advice of the Historic Buildings Council, make grants or loans for the preservation of particular buildings and their contents. Local planning authorities' powers to designate conservation areas in order to maintain their character, and to make building preservation orders and tree preservation orders, are subject to the Department's approval on behalf of the Secretary of State. The Ancient Monuments Board, appointed by the Secretary of State, advises him on monuments the preservation of which is of national importance.

13. The Countryside Commission for Scotland, whose members are appointed by the Secretary of State and which receives a grant through the Department's Vote, has an important part, by advice and encouragement and with its powers to approve development projects and grants and loans, in co-ordinating the conservation and enhancement of the amenity of the countryside with the improvement of facilities for recreation and tourism. Grants are available to local authorities for acquiring land for public open space and for approved expenditure in the countryside; and in five areas of particularly high amenity local planning authorities must notify the Secretary of State of all applications to develop. Local planning authorities are preparing tourist

development proposals for submission to the Secretary of State, identifying the potential in their areas for satisfying the needs of tourists, holiday-makers and other visitors. Under the provisions of legislation at present before Parliament the voluntary Scottish Tourist Board will be replaced by a new statutory tourist board whose members the Secretary of State will appoint and with which the Department will work closely.

14. The Secretary of State, jointly with the Minister of Housing and Local Government, appointed the Land Commission in February, 1967 to secure land for the implementation of national, regional and local plans, and to charge betterment levy on realised development value of land. The Commission, although a Government department, is independent of day-to-day Ministerial control; it has its own Vote, but the Secretary of State has certain responsibilities in relation to its activities in Scotland, which in the main are exercised through the Department.

New Towns

15. In the planning and growth of Scotland the five New Towns (East Kilbride, Glenrothes, Cumbernauld, Livingston and Irvine) are of major significance. The responsibilities of the Department under the New Towns Act involve all the preliminary work leading to the designation of the New Towns; the establishment and the appointment of the Development Corporations; the consideration of the Corporations' development proposals, the principal elements of which relate to industry and housing; and the making of advances from Government funds to provide the necessary capital. The New Towns now accommodate some 160,000 residents, and advances made to the Corporations amount to some £150m.

Housing

16. The Department administers the Housing (Scotland) Acts and assists the Secretary of State in formulating and executing his housing policies for Scotland.

17. In the public sector all county and town councils have the duty of considering the housing conditions and the particular needs of their area and of making proposals to the Secretary of State for meeting these needs. They have power to provide houses and also to acquire land either by agreement or compulsorily subject to the confirmation of individual proposals by the Secretary of State through the Department. For every new house which it provides with the Secretary of State's approval an authority may claim an annual subsidy for a period of 60 years and supplementary subsidies are also payable, for example, for multi-storey flats, building in remote areas, and sites which are expensive to develop. The Department lays down standards of cost, design, construction and accommodation to which proposals must conform to qualify for subsidy. In considering local authorities' building proposals it is concerned to ensure both that the total number of houses commissioned shows a proper balance between needs and the resources that can be devoted to housing in Scotland, and that the total is distributed with proper regard to priorities in different areas and in different categories of need. The amounts of Government subsidies and grants for new houses and improvements since State-aided housing began in Scotland in 1919 are as follows. (Figures for England and Wales in brackets.)

	£m.	£m.
1920 to 1929 (England and Wales—1919/20 to 1929/30)	9	(88)
1930 to 1938 (England and Wales—1930/31 to 1938/39)	19	(123)
1939/40 to 1948/49	33	(244)
1949/50 to 1958/59	95	(661)
1959/60	16	(73)
1960/61	16	(75)
1961/62	17	(77)
1962/63	17	(73)
1963/64	18	(77)
1964/65	20	(83)
1965/66	21	(88)
1966/67	22	(94)
1967/68	25	(107)

18. The problem of clearing away or improving sub-standard older houses also concerns the Department. Direct responsibility for initiating slum clearance action lies with local authorities: the Department is not involved in procedure affecting individual houses but proposals for compulsory acquisition or clearance of areas of sub-standard houses require to be confirmed by the Secretary of State. Since 1955 about 194,000 houses have been closed or demolished. Improvement is carried out either by individual owners with the assistance of discretionary or standard grants from local authorities or by the authorities themselves to houses which they own or have acquired for improvement. In either case the Department pays grants in support of the expenditure which the local authorities incur. In relation to both clearance and improvement the Department gives guidance in general terms to local authorities on the carrying into effect of the statutory provisions.

19. The level of rents of its houses is the responsibility of each council, but under the Prices and Incomes Act, 1968, all proposals to increase rents must at present be approved by the Secretary of State. The management and allocation of council houses are also matters for the local authorities, acting in compliance with statute. The Department gives guidance from time to time to local authorities on these matters, and on other aspects of their housing activities, such as the contracting procedures which are likely to achieve maximum speed and economy.

20. Through the Department capital advances are made, and subsidies are paid, to the Scottish Special Housing Association for its house-building activities. Under arrangements approved by the Secretary of State these are now directed mainly towards supporting economic growth and industrial development. Since its establishment in 1937 the Association has been advanced over £130m. In that period the Association has built about 63,000 houses on its own behalf and altogether owns about 68,000 houses. The Association has also built about 6,000 houses as agents for local authorities and other bodies.

21. Since 1964 the Secretary of State has also been responsible for appointing, jointly with the Minister of Housing and Local Government (and now the Secretary of State for Wales), the National Building Agency, whose chief aim is to encourage methods of increasing productivity in building, mainly in public sector house-building. In Scotland the Department works closely with the Agency in its operations on behalf of the building industry and of housing authorities.

22. At present some 29 per cent of houses in Scotland are owner-occupied; but since the war only about 14 per cent of the new houses in Scotland have

been built by private enterprise, most of them without State assistance. The Department has been implementing policies designed to secure an increase in the contribution of the private sector to the total output of houses, acting in consultation with the private house builders, the building societies, the Land Commission and local authorities. The proportion of private building has recently been increasing, and in 1968 it was about 21 per cent of the total output.

23. The Department also bears central responsibility for the operation of the rent regulation system, under the Rent Act 1965. It set up, and oversees the working of, the machinery comprising rent officers, who determine fair rents for unfurnished accommodation; members of the rent assessment panel for Scotland, who sit on local rent assessment committees to hear appeals against rent officers' decisions; and members of rent tribunals who fix rents for furnished accommodation under the Rent of Furnished Houses Control (Scotland) Act 1943.

24. The Department services, and works closely with, the Scottish Housing Advisory Committee, under the chairmanship of one of the Scottish Office Ministers, which keeps the general housing situation under review and provides advice on specific questions which may serve as the basis of legislation or be issued for guidance to local authorities. Since it was reconstituted in 1965 the Committee has produced reports on "Scotland's Older Houses": "Housing Management in Scotland"; and "Allocating Council Houses". In addition the Department commissions and conducts research on housing topics: an example is a current study of the comparative costs of private house-building in Scotland and in England, by a Heriot-Watt University team.

Roads

25. The Department is responsible for highway administration in Scotland. The Secretary of State has under statute a duty to keep under review the national system of through routes in Scotland, and a variety of responsibilities in relation to the construction, maintenance and management of roads, bridges and ferries, the regulation of traffic and the promotion of road safety; and he discharges these responsibilities through the Department.

26. A major part of the Department's activity is the determination and management of the road programme, which covers motorways, trunk and principal roads. The 1,975 miles of trunk roads and motorways in Scotland are the Department's direct concern although County Councils usually act as agents for trunk roads. For principal roads County and Large Burgh Councils are the highway authorities; they receive 75 per cent grants through the Department for works of new construction and improvement on these roads.

27. The size of the forward investment programme is fixed annually, after discussion with the Treasury, in accordance with the objectives set out in successive Government White Papers. The Department then allocates the available funds to major schemes in an order of priority determined in accordance with cost benefit analyses, economic development needs (assessed in consultation with the Scottish Economic Planning Board), and times required for preparation, design and construction. Contracts are let by the Department for trunk roads and motorways and by local highway authorities for principal road schemes when the Department gives them the necessary authority.

28. Since the Department took over highway administration in Scotland from the Ministry of Transport the expenditure under the Roads Votes on construction, improvement and maintenance of trunk and principal (formerly classified) roads has risen as follows (figures for England and Wales in brackets):—

	£m.	£m.
1956/57	6	(44)
1957/58	7	(56)
1958/59	9	(78)
1959/60	13	(90)
1960/61	15	(96)
1961/62	17	(107)
1962/63	20	(129)
1963/64	22	(163)
1964/65	24	(175)
1965/66	28	(178)
1966/67	32	(207)
1967/68	35	(235)

29. Local authorities also have a specific duty to ensure the free and safe flow of traffic, and the Department has been devoting much attention to the improvement of traffic management, in consultation with authorities and with the motoring and road haulage associations. The Department also encourages and guides local authorities' efforts to promote road safety and has recently established a road safety unit to provide more assistance.

Transport

30. Since 1968 the Department has carried responsibilities in the field of transport. For many years the Secretary of State has subsidised shipping services provided for the Western Isles and for the internal routes in Orkney and Shetland. On 1st January, 1969, on the coming into force of the Transport Act 1968, the whole of the Scottish road passenger and sea transport network in central public ownership was concentrated in the hands of the Scottish Transport Group, responsible to the Secretary of State, instead of being in the hands of bodies answerable to the Minister of Transport. The Group's activities embrace bus services outside the four cities and sea transport in the Clyde Estuary and, to the extent of a half share in the ownership of David MacBrayne Ltd., the Western Isles. The Group has power to acquire further businesses by agreement and to provide ancillary facilities. The Government's powers and duties in relation to the Group are exercised and discharged through the Department; particularly significant in this connection is the scrutiny and approval of the Group's investment proposals.

31. The Department remains responsible for subsidies and grants to essential shipping services; under the Act it has new powers to make grants to local authorities who assist rural bus and ferry services; and, also under the Act, it administers grants in respect of capital expenditure by transport operators or local authorities on facilities for the development of urban passenger transport. The Act provides for the establishment of local Passenger Transport Authorities (and Executives) to plan and co-ordinate all forms of public transport in particular areas, and the Department is concerned with the possible creation of such an Authority (or Authorities).

Environmental Services

32. *Water Supply.* The Secretary of State is statutorily responsible for the conservation of water resources and for promoting the provision of adequate water supplies in Scotland. Under these powers the Scottish Water Service

was reorganised in 1968, and is now administered by thirteen regional boards, together with the Central Scotland Water Development Board. The Department planned and carried out centrally this reorganisation. It now gives advice and guidance to the Boards, administers water supply grants, and discharges the supervisory and appellate functions placed upon the Secretary of State.

33. *Sewerage, refuse disposal and river purification.* The Department also controls capital expenditure on these services, and administers sewerage grants. County and town councils are locally responsible for the first two of these services: nine river purification boards (to which the Secretary of State appoints some members) have responsibility for the main rivers, elsewhere county councils are river purification authorities, and the Secretary of State is assisted by the Scottish River Purification Advisory Committee.

34. *Clean Air.* The Department, with advice from the Clean Air Council for Scotland, is centrally responsible for measures to reduce atmospheric pollution: local authorities' proposals for reducing industrial and domestic smoke by the creation of smoke control areas require confirmation by the Department, which contributes towards the cost of statutory grants paid by authorities to householders whose fireplaces need to be altered so as to burn smokeless fuel. In addition, certain works of types listed in the Alkali Acts which are liable to give off emissions that are difficult to control require to be registered by the Department. In these cases the Department's Alkali Inspectorate is responsible for securing that the best practicable means of controlling the emissions is adopted.

35. *Coast protection and flood prevention.* Grants are paid by the Department for coast protection projects and for flood prevention schemes: advice and help are given to the local authorities which propose to promote such projects.

Building Control

36. The Department is responsible for framing, and keeping up-to-date, the Building Standards (Scotland) Regulations—the code of basic standards of construction and design with which the Building (Scotland) Act 1959 requires virtually all new buildings or alterations to buildings to conform in the interests of health, safety and convenience. These Regulations are drawn up in consultation with bodies representing all aspects of building. Under the Act the Secretary of State may authorise relaxation of provisions of the regulations in individual instances in which full compliance would be unreasonable, and the Department deals with about 1,500 applications each year. Apart from this, administration of the Regulations lies entirely in the hands of local buildings authorities, subject only to an appeal to the sheriff.

Electricity

37. Electricity supply in Scotland is undertaken by the South of Scotland Electricity Board and the North of Scotland Hydro-Electric Board, which are responsible for generation, transmission and distribution of public supplies in their respective areas but which operate the Scottish system under joint control with generating costs met from a joint account. The Boards, whose members are appointed by the Secretary of State, act independently in their day-to-day operations, but the Department is concerned with their major activities because their investment programmes require the Secretary of State's

approval and because his consent is needed for the construction of generating stations and the erection of certain overhead lines. The Department is also concerned to ensure that the Government's fuel and economic policies are implemented in the operations of the Boards and in their pursuit of increased efficiency. Close liaison in all these matters is maintained with the Ministry of Power. The importance of the Department's task is indicated by the size of the loans made to the Boards from Government funds for the development of their systems: since 1945 £550m has been borrowed, and a further £230m may be required in the next seven years.

Highlands and Rural Development

38. The Department plays a co-ordinating and constructive role in promoting rural development throughout Scotland. The special problems of the Highlands and Islands, and the importance of the stimulating economic and social development there, have been recognised by the creation of the Highlands and Islands Development Board, with executive powers and finance. The Board submits to the Secretary of State proposals for the development of the area, and gives financial and technical assistance in the execution of approved proposals. Since 1968 the Department has been responsible for working with the Board, examining its proposals and giving it such encouragement and guidance as are needed.

39. In association with the Development Commission the Department has an interest in the establishment and expansion of small industries in rural areas: it maintains liaison with the Small Industries Council for the Rural Areas of Scotland, whose members are appointed by the Secretary of State and which provides advisory services, and loans, for smaller firms in rural areas. The Department also assists the activities of a number of other bodies concerned with social development in rural areas, such as the Scottish Council of Social Service and the Scottish Women's Rural Institutes.

PART IV

SCOTTISH EDUCATION DEPARTMENT

General

1. The Secretary of State is responsible for the overall control and development of education in Scotland. The function of the Scottish Education Department is to discharge this general responsibility and in particular to carry out the duties laid on the Secretary of State by the Education (Scotland) Acts 1939 to 1965, by the Social Work (Scotland) Act 1968 and by related Acts dealing with Teachers' Superannuation, Teachers' Remuneration, Child Care, Physical Training and Recreation and the older Scottish universities. The direct provision of educational services rests with education authorities and other agencies, many of which are statutory.
2. Expenditure by education authorities on the provision of school and further education is reckonable expenditure for the purposes of rate support grant. Broadly speaking therefore the cost of the main education services is shared by the local authorities and by the Government with most of the burden falling on the latter.
3. In broad terms the Scottish Education Department performs in Scotland the functions performed in England by the Department of Education and Science. The main difference is that the Department of Education and Science has also Great Britain functions in relation to Science Policy and the grant-aiding of the Universities, the major Research Councils (see also Annex 6) and the Arts Council, and that the Social Work Services Group, which is attached to the Department, discharges the responsibilities of the Secretary of State under the Social Work (Scotland) Act 1968 whereas in England and Wales the comparable responsibilities are discharged by the Home Office (Child Care and Probation) and by the Department of Health and Social Security (Welfare and Mental Health Services). In Scotland responsibility for the School Health Service rests, not with the Scottish Education Department, but with the Scottish Home and Health Department: in England it rests with the Department of Education and Science. Moreover, the Scottish Education Department is responsible for the central administration of student grants for university and other courses of higher education—in England and Wales this function is performed by the local education authorities. Responsibility for international co-operation in education (liaison with international bodies and representation at international conferences etc.) is carried on a U.K. basis by the Department of Education and Science. The Scottish Education Department is, however, consulted, participates regularly in U.K. delegations and often contributes separate papers because of the differences in the educational systems.
4. In the nineteenth century and in the earlier years of this century the tendency was for the Scottish Education Department to exercise fairly tight control over the activities of school managers; it also administered some key services—e.g. the national school leaving examination—itself. It thus played a much more dominant and direct part in the provision of the national system of education than the then Board of Education in England and Wales. More recently, however, and particularly in the past ten years, as the range and complexity of educational provision have increased, it has been policy to devolve more authority on education authorities and other school managers, on head teachers and on the teaching profession generally.

5. The total strength of the Department is 850. Of this number the staff of the Royal Scottish Museum make up 134; and H.M. Inspectorate of Schools a further 112. There are 86 in the Social Work Services Group, which has been attached to the Department since 1968. Within the Department the administration of the schemes of student awards and teacher pensions make the heaviest demands on manpower: these two branches alone account for 181 members of staff. The number of staff in the Administrative grade is 38. The total expenditure of the Department* in 1967-68 was £31m of which the heaviest single charge (£13m) was for awards to students. Consolidated current and capital expenditure by the public sector on education (excluding school meals and milk but including universities) in Scotland and in England and Wales is shown in the following table. (Source: Central Statistical Office.)

	1952/53	1957/58	1962/63	£m. 1967/68
Scotland	50.3	81.5	130.9	233.5
England and Wales	383.1	639.2	1028.0	1698.8
Scotland as Percentage of England and Wales	13.1	12.8	12.7	13.7

THE WORK OF THE DEPARTMENT

Schools

6. The majority of schools (catering for some 95.5 per cent of all children at school) are managed by education authorities. About 2.5 per cent of children are in "grant-aided" schools which receive grant directly from the Secretary of State: the remainder are at independent schools registered with the Secretary of State as satisfying minimum standards of education and accommodation. The whole of the school system in Scotland, therefore, in so far as it looks to central Government for guidance, assistance and control, looks to the Department.

7. As noted in paragraph 4 above the emphasis has been shifting in recent years from control to guidance. But both in the evolution of educational policy (for instance through discussion with school managers and teachers on working parties and standing committees such as the Consultative Committee on the Curriculum) and in the control of staffing and other standards (through regulations—the Schools Code—made by the Secretary of State and inspections of schools) the Scottish school system is distinct from the English. This difference is most clearly seen in the examination system: the school leaving examination in Scotland is a national examination, conducted until 1965 by the Department and since then by a statutory body appointed by the Secretary of State, the Scottish Certificate of Education Examination Board. One of the purposes of this examination is to equip pupils for entry to universities, and representatives of the Scottish universities serve on the Board, but the examination system is not conducted or controlled by any university or group of universities. The syllabuses and certificates awarded by the Board are different in character and standard from the G.C.E. and C.S.E. certificates awarded in England and Wales, and reflect differences in the pattern of school education.

8. Where the Government take major decisions of policy, which may be social as well as educational, affecting the schools that are necessarily uniform throughout Great Britain—such as the raising of the school leaving age or changes in the arrangements governing the provision of school meals—they apply to Scottish schools as to schools in England and Wales. Such matters involve close consultation between the two Education Ministers and their Departments.

*Excluding expenditure on Social Work Services.

Colleges and Universities

9. Further education in Scotland is provided largely by the education authorities at colleges of further education, and here again the authorities look for support and assistance to the Department. Advice on the needs of Scottish industry is given by various standing committees, notably the Scottish Technical Education Consultative Council. Many of the courses provided lead to the examinations of the City and Guilds of London Institute, which in turn reflect the requirements of industry throughout Britain. In the same way courses are geared to the requirements of the Industrial Training Boards formulated again on a Great Britain basis. Other technician courses and examinations with national currency are also provided, but these are devised and administered in Scotland by two bodies—the Scottish Council for Commercial, Administrative and Professional Education and the Scottish Association for National Certificates and Diplomas. These bodies were set up with the collective agreement of local authorities and are financed by them.

10. In addition to colleges under the management of education authorities, there are in Scotland ten central institutions* providing courses in advanced technology, art, domestic science, music and drama. These include courses leading to the award of college diplomas approximating in standard to university Ordinary degrees, and courses leading to university degrees as such (by arrangement either with particular universities or with the Council for National Academic Awards), together with other advanced level courses such as those leading to the award of the Higher National Diploma (H.N.D.). The central institutions, which are managed by independent Governing Bodies, depend, apart from fees, on Government grant from the Secretary of State. There are also ten colleges of education managed by statutory governing bodies which provide the various courses of teacher training, one or other of which is in Scotland an essential qualification to teach. They also are financed, apart from fees, by Government grant from the Secretary of State.

11. As noted in paragraph 3 above, the Department of Education and Science discharges the Government's functions in relation to the grant-aiding (through the University Grants Committee) of all universities in Great Britain (see also Annex 5). The Secretary of the Scottish Education Department is, however, an assessor to the U.G.C. The Department discharges the Secretary of State's statutory responsibilities in relation to the Universities (Scotland) Acts which determine the constitution of the four older Scottish universities. It maintains close informal contacts with the Scottish universities on matters of mutual concern and maintains liaison with the recently constituted Scottish Universities Council on Entrance on common entrance standards to the Scottish universities.

Adult Education, Youth Service, Sport, Recreation, the Arts

12. Informal further education is also administered separately in Scotland. Non-vocational leisure time courses are provided by education authorities in association with university extra-mural education committees. Social and recreational facilities are provided by education authorities and voluntary bodies, many of which receive financial assistance in respect of local activities from education authorities and from town, county or district councils. The Department makes grants to assist voluntary bodies which operate on a Scottish or regional basis and to the one residential adult college. The Department is advised in this field by the Standing Consultative Council on Youth and

*The three agricultural colleges which also rank as central institutions are administered by the Department of Agriculture and Fisheries for Scotland.

Community Service, the Sports Council and the Sports Council for Scotland. While the Sports Council advises the Government on the development of amateur sport and physical recreation on a Great Britain basis, the Sports Council for Scotland, which was set up by the Secretary of State for Scotland, has the primary responsibility for advising on the development of facilities for sport in Scotland. In the same way, while the Arts Council is a Great Britain body there is a Scottish Arts Council (appointed by the Arts Council in consultation with the Secretary of State) which has responsibility for the development of the Arts in Scotland, and a proportion of the Exchequer grant to the Arts Council of Great Britain is allocated by it to the Scottish Arts Council for distribution in Scotland. The Department is represented by an assessor on both the Great Britain and the Scottish Arts Council. The Department is responsible for the Royal Scottish Museum and exercises a measure of supervision over the National Museum of Antiquities, the National Library of Scotland and the National Galleries of Scotland, which have their own trustees appointed by the Secretary of State.

Teachers

13. As noted in paragraph 10 above the Department administers the Government grant to the colleges of education which provide teacher training in Scotland. The Secretary of State prescribes in statutory instruments the requirements for entry to teacher training and the conditions to be fulfilled for the award of a teaching qualification. Such a qualification leads to registration with the General Teaching Council, which is the mark of recognition of the qualified teacher. Responsibility for advice to the Secretary of State on training requirements rests by statute with the Council which is also charged with the maintenance of a register of teachers. In addition the Council has the responsibility of advising the Secretary of State on questions of teacher supply and the Department maintains close liaison with it both in this field and in the field of training. The Department looks after the Government interest in relation to the salaries of teachers (who are paid on different and separately negotiated scales from teachers in England and Wales): the S.E.D. represents the Secretary of State on the management side of the Scottish Teachers Salaries Committee. The Department also administers the Teachers Superannuation Scheme which is financed by contributions from the teachers and their employers.

Educational Building

14. The Department is responsible for the distribution of the investment allocations for public education in Scotland between Scottish education authorities and the other grant aided bodies concerned. These allocations are fixed by the Department after consultation with the Treasury. The Department is responsible for the prescription of building standards, cost limits and for the guidance offered in design and development. On these matters close liaison is maintained with the Department of Education and Science and full use is made of that Department's publications and other guidance material that is applicable to Scottish schools or other buildings.

Educational Research

15. The Department co-ordinates and assists educational research in Scotland. In this it works partly through the Scottish Council for Research in Education, which is an independent institution composed of teachers, educational administrators, members of university and college staffs and research

workers and which receives an Exchequer grant from the Department. The Council conducts some research projects at its own hand, sponsors some projects and grant-aids others. The Department also grant-aids research done by universities, colleges of education and individuals; it bears a proportion of the cost of work conducted on a Great Britain basis by the Social Science Research Council and the National Bureau for Co-operation in Child Care.

Educational Endowments

16. The Department exercises the Secretary of State's functions under Part VI of the Education (Scotland) Act 1962 in connection with educational endowments.

Information and Publicity

17. The Department publishes an annual report "Education—Scotland" which is presented to Parliament and an annual volume of Scottish educational statistics. It also publishes from time to time memoranda on particular topics as well as the reports of advisory bodies on educational matters.

Social Work Services Group

18. The Social Work Services Group, attached to the Department since April, 1969, has the general responsibility of discharging those functions of the Secretary of State which relate to local authority social work services, both in their existing form and as they will be when reorganised in accordance with the provisions of the Social Work (Scotland) Act 1968. The 1968 Act requires each county, city and large burgh in Scotland to set up a social work committee to deal with its functions under the Act and related legislation, and to appoint a director of social work to head an integrated social work department which will take over from the existing separate departments the child care, welfare (including social support of the physically and mentally handicapped and of the elderly) and probation and after-care functions of the local authority. The new departments, which are to be set up in November 1969, will also have an important new general function of promoting social welfare in the area of their local authority. This will be achieved by making available advice, guidance and assistance to individuals and families who need it and in the wider sense by promoting action aimed at improving the quality of community life and by advising on the social implications of local authority planning.

19. The general duty to promote social welfare includes a duty to provide a range of residential and other establishments for social work purposes. The range of establishments will include some similar to the present approved schools. These schools are approved by the Secretary of State for the provision of education and training for boys and girls, usually between the ages of 10 and 17, whom the courts consider to need treatment because they have committed offences, are truants or are in need of care or protection. Except for those managed by Glasgow Education Authority, approved schools are under the control of voluntary managers. Maintenance grants are paid to the managers of all schools and capital grants to managers of voluntary schools unable to finance their capital work by borrowing. Fifty per cent of the total recurrent expenditure is met by the education authorities to whose areas the pupils belong. The Act provides that for a transitional period the Secretary of State's powers in relation to the management of approved schools and the approved school grant system will remain as at present.

20. The Act also introduces a system of children's panels—on the lines recommended by the Kilbrandon Report in 1964—which, broadly speaking, will replace the juvenile courts as the means of dealing with children in need of compulsory measures of care. These provisions will be brought into force late in 1970 when it is expected that the reorganisation of local authority social work services will have been completed and the new social work departments will be ready to advise and serve children's panels.

21. In anticipation of these changes, the Social Work Services Group was set up in 1967 by bringing together those professional and administrative staff in the Scottish Education Department who exercised the Department's responsibility for child care services and approved schools and those in the Scottish Home and Health Department who dealt with the welfare and probation services. Its immediate task is to plan the future organisation and development of all social work services and the children's panels, in consultation with the local authorities and other organisations who are involved; to advise local authorities and voluntary organisations on the ways in which they can best develop their respective parts of this service; to advise on recruitment and training of staff of local authorities and voluntary organisations and the provision and development of residential facilities and day centres for the whole range of social work purposes; and to encourage and assist the development of adequate links between social work services and other public services at all levels. The Group has two broad roles—one towards the Secretary of State and his concern with the broad planning involved and the supervision of services in operation; and the other towards local authorities and voluntary organisations. In addition, within the Scottish Office as a whole, the Group will be expected to give advice where other services such as education, planning, housing and regional development have an impact on or are themselves influenced by social development.

SCOTTISH HOME AND HEALTH DEPARTMENT

1. The Department's work includes two groups of functions:—

Health services;

Functions relating mainly to law and order.

These correspond to functions exercised in England and Wales by the Department of Health and Social Security, the Home Office (both of which Departments also exercise certain other functions in Scotland) and by the Lord Chancellor's Department. There is close co-operation with these Departments, but the scope for this varies with the subject matter. At one end of the scale, the pay and conditions of service of, for example, doctors, nurses and police officers are negotiated on a Great Britain basis and this demands the closest co-operation between Departments in the relevant negotiations; at the other, the separate Scottish legal and court systems call for distinctive Scottish lines of action in matters relating to the organisation and jurisdiction of the courts. The smaller scale of Scottish administration gives rise to a different relationship, based on closer personal contacts, with the local units, which themselves are usually smaller than the corresponding units in England and Wales. In some of its functions (e.g. fire services) the Department operates under Great Britain legislation; in others there are separate English and Scottish Acts which differ in detail and sometimes in major respects.

2. The total number of non-industrial staff in the Department (excluding the staff of penal establishments and the State Hospital) is around 1,500, of whom 48 are in the administrative class. Of these, some 500 are employed on health service work, 250 on "law and order" functions and the remainder on common service functions such as establishment, finance, legal and information services (some of which are exercised on behalf of all four Scottish Departments). The total expenditure in 1967/68 on votes accounted for by the Department was £184 m (£162m net), of which £158m (£141m net) was on the National Health Service (Scotland) Vote. In addition, the Department is concerned (in a variety of ways which are described in the following paragraphs) with local authority services financed from the rates and reckonable for rate support grant.

Health Services

3. The Secretary of State's main responsibility for health services stems from the National Health Service (Scotland) Act 1947 which gives him the duty of providing or securing the provision of comprehensive health services in Scotland. As in England and Wales, the health service is at present organised in three parts:—

- (1) The hospital services, which are organised by five Regional Hospital Boards appointed by the Secretary of State and acting as his agents. The day-to-day running of the hospitals is undertaken by 76 Boards of Management responsible to the Regional Hospital Boards. These arrangements cover all N.H.S. hospitals, unlike England and Wales where most teaching hospitals have Boards of Governors responsible directly to the Secretary of State. Ambulance services and blood transfusion are organised on a national basis through, respectively, the St. Andrew's Scottish Ambulance Service and the Scottish National

Blood Transfusion Service. Expenditure on all these services is met from the N.H.S. (Scotland) Vote; the expenditure in 1967/68 was £109.8m.

- (2) The general practitioner services, which are administered by 25 executive councils, are provided by family doctors, dentists, chemists and opticians. Expenditure is met from the N.H.S. (Scotland) Vote; the expenditure in 1967/68 was £39.1m.
- (3) The local authority services for prevention of illness and after-care are run by the local health authorities (counties and large burghs) in accordance with proposals approved by the Secretary of State. Expenditure is met from the rates and is reckonable for rate support grant; the estimated expenditure on these services in 1967/68 was £10.9m.

4. In addition, the Secretary of State is directly responsible for the provision of health centres with facilities for all three branches of the health services, although he may delegate his powers to local health authorities; in England and Wales this is a function of local health authorities only.

5. The "tripartite system" is now felt to create obstacles, both in long-term planning and in providing effective care for individual patients, and the Secretary of State after informal consultations has published a "Green Paper" embodying proposals for a unified system of administration by area health boards which would be Exchequer financed. Corresponding proposals are under consideration in England and Wales, but the final pattern that emerges is likely to vary according to the different circumstances north and south of the Border. Even if there were general agreement about a new type of structure, however, it is unlikely that the major legislation required for a change of this magnitude could be brought into effect within the next two or three years.

6. Although the running of the hospital service is delegated to regional hospital boards and boards of management, the Department is involved in a number of ways. The Department distributes revenue finance between the five regional boards, leaving them in the main to determine their own priorities for the use of the finance within the region; determines the programme of major capital works in the light of the regional priority programmes drawn up by the hospital boards; distributes capital finance and exercises overall supervision over capital expenditure and hospital planning, with particular attention to major schemes; issues instructions to hospital boards on building control procedures and cost limits, and guidance on questions of hospital planning and design; takes part along with the Department of Health and Social Security in negotiations on pay and conditions of service for hospital staff, and deals with other staffing questions; issues general policy guidance on the running and development of the service; participates with regional boards in determining the organisation of services which require to be considered nationally; and acts as a clearing house of information and stimulates research.

7. On executive councils services the Department is concerned with general questions of policy and is involved in questions affecting the remuneration and conditions of service of doctors, dentists, pharmacists and opticians providing services in contract with executive councils. Remuneration of doctors, dentists and opticians is negotiated on a Great Britain basis and officers of the Department are associated with the Department of Health and Society Security in

these negotiations; the remuneration of pharmacists in contract with executive councils is separately negotiated in Scotland. The Department also has general oversight of the work of the councils; and handles individual complaints and specific proposals, e.g. for increase of staff.

8. Local health authorities plan and provide health services in their own right and not on behalf of the Secretary of State. The Department's chief objective is to achieve certain standards of service in the provision of these services by local authorities throughout the country; this is done mainly by giving general guidance and stimulus to authorities. The Department also exercises some specific controls, e.g. loan sanctions for capital works.

9. The Department advises the Scottish Education Department on the requirements of the School Health Service and gives technical guidance to the medical staff of county health authorities (who act as medical staff of local education authorities) on its operation.

10. In all these matters statistical information and operational research based on it and assistance in both fields, is given by the Department's Research and Intelligence Unit.

11. The planning of health centres involves consultation with a variety of local interests, and the management of the centres raises the day-to-day problems associated with this type of building. There are at present only 11 health centres but many more are at various stages of planning.

12. The Department exercises the Secretary of State's functions under the Mental Health (Scotland) Act 1960, which include recommending to the Crown on appointments to the Mental Welfare Commission, an independent body constituted under the Act to protect the interests of persons suffering from mental disorders. The Department also supplies the Commission's staff. Health services for mentally disordered patients are, in general, provided as an integral part of the general system described above; an exception is the State Hospital for such patients who require treatment in conditions of special security. This is the direct concern of the Secretary of State, and he appoints the hospital's management committee which includes Departmental representatives.

13. The Department also deals with certain other public health matters, including food standards and food hygiene; slaughterhouses and meat inspection; welfare foods; milk and dairy hygiene; burial and cremation Acts. The appropriate statutes give extensive responsibilities to local authorities. These are exercised subject to the approval in certain circumstances of the Secretary of State. In addition to exercising this supervision and control the Department is involved in the preparation of subordinate legislation of which there is a good deal in these fields. The Department's small staff of food and dairy officers, stationed in different areas, advises local authorities on their functions but have no executive powers.

14. There is in the Scottish Office (reporting to the Department and to the Scottish Education Department) a health education unit responsible for stimulating health education on a national scale. The unit works in association with the Scottish Council for Health Education, which is a voluntary body representative of local authorities and provides training for local authority staff engaged in this field. This differs from the position in England and Wales where a non-departmental body, the Health Education Council, is responsible for health education.

15. In addition, the Department performs, so far as the Health Service is concerned, certain executive functions in relation to supplies and superannuation, the latter being financed from the National Health Service (Superannuation etc.) (Scotland) Vote.

16. In all relevant health matters there is co-operation with the Department of Health and Social Security. On some matters, it is necessary to establish a uniform policy for Great Britain, e.g. on pay and conditions of service on N.H.S. staff; immunisation of children against infectious diseases; food standards and welfare foods. On other matters it may be desirable to concert a common plan of action in both countries, e.g. facilities for the treatment of drug addicts; development of centres for organ transplant. But on other matters, the different conditions and smaller scale of operations in Scotland may call for a different line of approach. Scotland, for instance, has its own General Nursing Council which amongst its other duties has responsibilities for nurse training, and the syllabus differs from that in England and Wales. The pattern of implementation of the proposals of the Committee on Senior Nursing Staff Structure (the Salmon Committee) has been different in Scotland from that in England and Wales; and to implement the management training proposals recommended in the Salmon Report, Scotland has its own Nursing Staffs Committee. Each country has its advisory bodies (the Health Services Council and standing advisory committees) and these often undertake joint enquiries, or a report by one body may be accepted for implementation in the other country. An example of a Scottish report, some of whose recommendations were commended to hospital authorities in England and Wales as well as in Scotland, was the Farquharson-Lang Report on administrative practice of hospital boards in Scotland. In the preparation of guidance on hospital planning and building questions a number of complementary studies and joint studies have been carried out by the two Departments. The cost limits related to Building Notes issued by the Department of Health and Social Security have been used in Scotland, and some of the guidance material issued in Planning Notes by the Scottish Home and Health Department has been adopted for England and Wales.

17. By agreement the Department of Health and Social Security acts as the corresponding and co-ordinating Department for the U.K. on matters of International Health but the action on relevant matters in Scotland is taken by the Scottish Home and Health Department. The Scottish Home and Health Department also provides members for U.K. delegations to the World Health Assembly, Commonwealth Medical Conference and some Committees of the Council of Europe, etc.

18. In all these matters, the professional staff (medical, dental and nursing staff and other professional advisers) have an important role which is not restricted to advising but includes participating in administration on many matters which have a high professional content. These staffs maintain close contact with professional bodies and with the professional officers of the various health service authorities; through these contacts and by virtue of their professional training, they are able to represent and interpret professional feeling on current issues at discussions within the Department. They also advise the hospital service on specific items, e.g. selection of major items of equipment such as X-ray units, sterilisers, etc.

19. The following table gives some comparative statistics about the National Health Service in England and Wales, and in Scotland, from 1955 (the earliest year for which fully comparable figures are available).

Year	Population		No. of Staffed Beds per 1,000 Population		No. of Discharges per Staffed Bed		No. of G.P.s per 10,000 Population		No. of Nurses in Hospitals (1)		No. of Medical and Dental Staff in Hospitals (1)		No. of New Out-Patients		Cost of Health and Welfare Services per Head (year commencing 1st April)		Year
	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	Scotland	E. & W.	
1955	5,111,300	44,441,000	12.8	10.8	7.6	7.6	5.7	4.8	22,942	176,220	2,786	15,328	2,105,051	11,635,900	£ s. d.	£ s. d.	1955
1960	5,177,700	45,755,000	12.4	10.5	8.6	8.6	5.6	4.9	27,528	206,304	3,133	17,045	2,228,922	12,768,000	18 8 7	17 15 5	1960
1963	5,204,500	47,027,700	12.7	10.0	9.5	9.7	5.1	4.7	29,398	207,747	3,391	18,515	2,377,388	13,909,000	21 15 9	20 11 9	1963
1964	5,206,400	47,401,300	12.4	10.0	9.6	10.0	5.5	4.6	30,509	234,439	3,407	18,928	2,546,572	14,469,000	23 13 4	22 3 9	1964
1965	5,203,900	47,762,800	12.5	9.8	9.8	10.3	5.4	4.5	31,984	222,396	3,625	19,483	2,592,745	14,588,000	27 0 9	24 18 5	1965
1966	5,190,300	48,075,300	12.4	9.7	9.9	10.5	5.3	4.4	32,793	228,420	3,624	20,141	2,525,067	14,899,000	30 1 5	27 6 5	1966
1967	5,186,600	48,390,800	12.5	9.7	10.1	10.7	5.2	4.4	34,806	239,323	3,904	20,395	2,599,497	15,312,000	33 5 1	29 17 9	1967
1968	5,187,500	48,593,100	12.5	N/A (2)	10.5	N/A (2)	5.2	N/A (2)	35,183	226,592	3,942	21,332	2,717,513	N/A (2)	35 11 5	31 16 8	1968

(1) Whole-time equivalents.

(2) N/A—Not yet available. Return is at 31st December.

Police

20. There are 20 police forces in Scotland administered locally by police authorities or by joint police committees serving combined police areas. This number has been reduced from 31 as a result of schemes of amalgamation initiated and approved by the Secretary of State since 1966. Expenditure is met from local revenue but attracts specific grant at the rate of 50 per cent of approved expenditure. The balance of local authority expenditure qualifies for rate support grant.

21. The Police (Scotland) Act 1967 gives the Secretary of State a number of powers and responsibilities, among them the power to approve senior appointments and to make regulations governing the conditions of appointment and service of police officers, pay, promotion, discipline and allied matters; he may also provide certain services on a common basis throughout Scotland.

22. These obligations involve the Department very closely in the administration and organisation of police forces though not directly in their operations, except by way of advice which is frequently used, for example, to encourage the adoption of new and more flexible methods of policing. Forces are inspected annually by H.M. Inspectors of Constabulary, who report to the Secretary of State on the efficiency of each force. The Secretary of State may also call for reports from Chief Constables on any aspect of the policing in their areas. This power is most frequently used in relation to complaints about the police which are brought to the Secretary of State's notice.

23. Among the more important services organised on a common basis are recruit training, and training for the ranks of inspector and superintendent, all of which is carried out at the Scottish Police College which is administered by the Department, half of the cost being recovered from police authorities. Other common services are a central criminal records office, and an examination board for promotion examinations.

24. A further statutory responsibility laid on the Secretary of State, which brings the Department into close contact with individual forces, is the approval of police and civilian establishments for each police force.

25. Pay and allowances are negotiated on a Great Britain basis by the Police Council for Great Britain, which includes representatives of the Department, the Scottish local authority and Scottish police associations. On all other matters affecting the police the Secretary of State is advised by the Police Advisory Board for Scotland, which is separate from that for England and Wales and includes representatives of local authority associations, the Scottish police associations, officials and independent members appointed by the Secretary of State.

26. The Department maintains a close liaison with the Home Office on all matters affecting the police though practices vary on either side of the Border partly because of differences in English and Scots law, and partly because, both for historical and geographical reasons, the organisation of the service has followed dissimilar lines in the two countries. For these reasons the regulations made by the Secretary of State for Scotland on police matters are often separate from and differ considerably in detail from those made by the Home Secretary in similar circumstances. Officers of the Department and representatives of the Chief Constables' (Scotland) Association attend meetings

in London of such bodies as the Central Conference of Chief Constables and the Traffic Committee, which is a sub-committee of the Central Conference. Attendance at these meetings enables Scottish representatives to be involved in the formation of a common policy for Great Britain where this is appropriate. The extent to which uniformity is possible or desirable depends on the legal or procedural backgrounds of each issue and on specific Scottish circumstances. Thus in most, although not all, matters relating to traffic law, it is possible through the Traffic Committee to obtain a common "police" view for Great Britain; this is because traffic law is fairly uniform throughout Great Britain. On the other hand the criminal law and criminal procedure in Scotland differ in a number of respects from that in England and Wales and some Scottish social legislation is also different. This means that consideration, for example, of the procedural implications of Part III of the Social Work (Scotland) Act 1968—broadly the provisions regarding children's panels and children's hearings—is going forward, with the co-operation of the Chief Constables (Scotland) Association, on a wholly Scottish basis.

27. Because of the limited number of forces in Scotland it has been possible to maintain a very close contact with the chief constables both individually and collectively. H.M. Inspectors, who are wholly based in Scotland, have an important advisory function in relation both to individual forces and to the Department.

28. The following table indicates the order of total expenditure on police services in Scotland since 1900:—

*Total expenditure on the Police Service
in Scotland*

	£,000
1900	491
1910	596
1920	1,919
1930	2,142
1938	2,415
1950	4,795
1960	10,845
1968	22,846

*Police Manpower—Scotland
Police Officers*

<i>Year</i>	<i>Establishment</i>	<i>Strength</i>	<i>Civilians</i>
1900	5,151	5,100	*
1910	5,849	5,826	*
1920	6,758	6,631	*
1930	6,782	6,693	11
1938	7,054	6,966	113
1950	7,712	7,320	*
1960	9,266	8,669	1,068
1967	11,107	10,156	2,392

* Not available

Fire Services

29. The fire service in Scotland is provided by 11 brigades administered by 56 local authorities of which only Glasgow has its own brigade. In terms of the Fire Services Act 1967 the other fire authorities have been grouped into

ten joint committees each of which is responsible for a single brigade. Expenditure is met from rates and is reckonable for rate support grant. A table showing the total net expenditure of the 11 fire brigades in Scotland from 1950-1968 follows.

<i>Year ended</i>			<i>Scotland</i>	<i>England and Wales</i>
<i>May</i>			£,000	£,000
1950	...	...	900	10,310
1955	...	...	1,690	17,700
1960	...	...	2,500	25,470
1965	...	...	4,300	40,040
1966	...	...	4,630	44,590
1967	...	...	4,850	48,780
1968	...	...	5,560	53,020

30. Each brigade is inspected annually by H.M. Inspector of Fire Services who is based in Edinburgh and reports to the Secretary of State on the way in which fire authorities are performing their functions under the Fire Service Acts. H.M. Inspector also keeps in close contact with firemasters on an informal basis at other times, and has an important advisory role in relation to the Department and to individual brigades.

31. The Secretary of State exercises a general co-ordinating and guiding role largely through the Scottish Central Fire Brigades' Advisory Council, on which the local authority associations and the fire service associations are represented. Many matters of common interest are discussed on joint committees of the Scottish Advisory Council and the Advisory Council for England and Wales.

32. Close co-operation is maintained with the Home Office on all aspects of fire service work and organisation. The Fire Service Acts are Great Britain measures and there is therefore a great deal of common ground north and south of the Border. The principal points at which a different approach has been taken in Scotland are the organisation of the service under joint committees and the provision on a national basis of facilities for the training of junior ranks. There are also technical problems of particular importance in Scotland, for example, codes of practice in relation to fire safety in woodlands and the jute industry.

33. The Department maintains the Scottish Fire Service Training School which provides training for ranks up to and including leading firemen and, with the Home Office, is jointly responsible for the Fire Service Staff College and the Fire Service Technical Staff College which provide training for more senior ranks and for some specialised posts.

**FIRE SERVICE MANPOWER
(WHOLE-TIME)**

SCOTLAND

ENGLAND AND WALES

Year	Establishment			Actual Strength			Year	Establishment			Actual Strength		
	Men	Junior Firemen	Women	Men	Junior Firemen	Women		Men	Junior Firemen	Women	Men	Junior Firemen	Women
1950	1,821	—	75	1,787	—	69	1950	19,388	—	521	18,629	—	484
1955	1,861	—	73	1,781	—	73	1955	19,640	—	494	18,211	—	472
1960	2,189	—	92	2,106	—	94	1960	22,569	—	560	20,926	—	558
1965	3,028	—	129	2,795	—	123	1965	27,201	946	885	24,097	439	758
1966	2,953	44	133	2,743	24	127	1966	27,487	1,031	917	24,230	477	799
1967	2,948	49	135	2,707	13	136	1967	25,748	1,020	934	24,102	397	814
1968	2,947	49	138	2,633	16	138	1968	25,134	1,008	956	24,003	241	845

FIRE SERVICE MANPOWER (PART-TIME)

SCOTLAND

ENGLAND AND WALES

<i>Year</i>	<i>Establishment Men</i>	<i>Actual Strength Men</i>	<i>Year</i>	<i>Establishment Men</i>	<i>Actual Strength Men</i>
1950	2,943	2,407	1950	19,605	15,093
1955	3,059	2,491	1955	19,182	14,334
1960	3,116	2,579	1960	18,223	14,279
1965	3,014	2,589	1965	18,221	14,789
1966	3,052	2,685	1966	18,261	15,277
1967	3,069	2,747	1967	18,260	14,100
1968	3,189	2,839	1968	18,377	14,719

Part-time firemen in England and Wales are equivalent to retained firemen in Scotland. There are very few volunteer firemen in England and Wales. About 600 volunteer firemen in Scotland are included in the 1968 figure shown above:

Criminal Policy

34. The Department is responsible, in consultation with the Crown Office, for the oversight of the processes of the criminal law, the criminal law itself, and the treatment of offenders, and for any amending legislation required on those subjects. It works in co-operation with the other Departments concerned, particularly the Social Work Services Group, on measures for the prevention of crime generally. (The treatment of child offenders is a matter for the Group.) These responsibilities involve it in the examination of cases in which the exercise of the Royal Prerogative of Mercy is sought, e.g., on a claim of miscarriage of justice, and also, through the Department's psychiatric adviser, in the subsequent treatment of persons who have been ordered by the criminal courts to be detained as mental patients with the restriction that decisions regarding their discharge, etc., are reserved to the Secretary of State.

35. These responsibilities correspond to those falling to the Home Office; and there is close consultation with appropriate officials there about common problems. However, the different law, the different criminal procedures and the different judicial and administrative systems leave comparatively little room for joint action and may lead to quite different solutions in the two countries. On two subjects, however, there is joint action:—

- (1) *Criminological research.* Direct Government research is carried out throughout Great Britain by the Home Office Research Unit, which operates on behalf of both Secretaries of State and to the cost of which (borne on the Home Office vote) the Department pays a contribution. Financial assistance to research carried out by Universities in Scotland and in England and Wales is paid by the Home Department concerned, but there are arrangements for co-ordinating the research programmes of the two countries.
- (2) *Compensation to Victims of Crimes of Violence.* The Criminal Injuries Compensation Board operates on a Great Britain basis in accordance with a scheme drawn up by the two Secretaries of State. The cost of the scheme is shared between the votes of the Home Office and the Scottish Home and Health Department roughly in proportion to the payments made to the victims in each country.

Prisons

36. The Department is responsible for carrying out the Secretary of State's functions under the Prisons (Scotland) Act 1952 for the administration of the penal system in Scotland. This follows generally the same pattern as that of England and Wales. There is, however, one significant difference. Since the passing of the Criminal Justice (Scotland) Act 1963 it is no longer possible for a Court in Scotland to impose a sentence of imprisonment on any person under the age of 21 (as may still be done in England). Accordingly young offenders institutions are provided; but before committing a person under 21 to such an institution the Court must be satisfied that no other form of disposal, e.g. to borstal or detention centre, is appropriate.

37. There is close liaison between the Prison Division of the Department and the Prison Department of the Home Office. The Division is represented, for example, by an observer on a Sub-Committee of the Advisory Council on the Penal System dealing with detention centres. Furthermore, the services of some Prison Department advisers are available to the Scottish service: these include the Assistant Director of female establishments in England and Wales, who advises generally on similar establishments in Scotland, and the catering adviser to the Prison Department, who makes an annual visit to all the Scottish penal institutions.

38. The staff of the Prison Division includes an Inspector of Prisons (formerly a senior Prison Governor) and an Assistant Inspector who is a grade III Governor seconded to the Division.

39. The Scottish prison service is a separate entity from that for England and Wales, with its own Departmental Whitley Council, but the staff have the same conditions of service as their counterparts across the Border. The main burden of negotiation on such matters falls to the Home Office, but the conditions of certain grades peculiar to Scotland have to be the subject of separate negotiation. One major difference in the staffing arrangements is that, whereas in England and Wales the administrative and clerical work within the penal institutions is undertaken wholly by officers of the executive and clerical classes of the general Civil Service, the corresponding duties in Scotland are carried out mainly by members of the prison officer class. The Department co-operates closely with the Home Office on all aspects of prison service pay and conditions and is represented as appropriate on Home Office working parties and committees.

40. The Department is responsible for the operation of the parole system introduced under the Criminal Justice Act 1967 and provides the Parole Board for Scotland with the information it requires to enable it to carry out its duties, as well as secretarial services.

41. Statistics relating to the penal population in Scotland and expenditure on prison administration and capital building follow.

42. On 15th March, 1969 the number of prisoners and inmates detained in Scotland was 4,959 (including 178 females). This represents 96 persons in custody per 100,000 of the population. On the same date the inmate population in England and Wales was 33,599 (including 793 females) which represents 69 per 100,000 of the population. The total population of Scotland is approximately 1/9th of that of England and Wales.

43. The average daily numbers of prisoners and inmates in custody for certain years (with corresponding figures for England and Wales, as available, in brackets) were as follows:—

1900	...	...	...	...	2,698	
1910	...	...	...	...	2,777	
1920	...	...	...	...	1,874	
1930	...	...	...	...	1,661	
1938	...	...	...	...	1,543	
1950	...	...	...	...	1,781	(20,474)
1960	...	...	...	...	2,821	(27,899)
1961	...	...	...	...	2,997	(29,025)
1962	...	...	...	...	3,238	(31,063)
1963	...	...	...	...	3,504	(30,896)
1964	...	...	...	...	3,250	(29,600)
1965	...	...	...	...	3,381	(30,421)
1966	...	...	...	...	3,744	(33,086)
1967	...	...	...	...	4,238	(35,009)

44. Net expenditure to 31st March in certain years (with corresponding figures for England and Wales, where available, in brackets) was as follows:—

1900	...	...	...	81,527	
1910	...	...	...	87,943	
1920	...	...	...	216,672	
1930	...	...	...	128,911	
1938	...	...	...	228,803	
1950	...	...	...	421,745	(4,429,055)
1960	...	...	...	1,515,782	(15,998,982)
1961	...	...	...	1,787,278	(18,595,100)
1962	...	...	...	1,845,811	(21,672,223)
1963	...	...	...	2,219,599	(24,025,648)
1964	...	...	...	2,605,169	(27,180,771)
1965	...	...	...	2,953,982	(28,756,334)
1966	...	...	...	3,508,291	(31,389,715)
1967	...	...	...	4,079,140	(32,947,695)

Other "Home" Functions

45. The Department is responsible for a number of other functions which in England and Wales are discharged by the Home Office. These include civil defence; representation of the people; ceremonial matters (on which the Department is in touch with Lyon King of Arms); relations with the Churches; and a wide variety of regulatory functions in relation to such matters as liquor licensing, betting, gaming and lotteries, house-to-house collections, the licensing of places of public entertainment and the protection of animals and wild birds. In all matters there is necessarily close co-ordination with the Home Office but special Scottish considerations arise. For example, the licensing law in the two countries is different in a number of respects and local government electoral law, including the fixing of local government electoral areas, has separate features; and the existence of a separate legal system and of different social customs (e.g. in relation to Sunday observance and public holidays) materially affects the application of national policies to Scotland. The review of British Standard Time presents special considerations in Scotland, because of the different timing of daylight in the north and west. The distinctive

position of the Church of Scotland, established but independent of any form of State control or patronage, is of considerable constitutional importance. The Department also administers the Private Legislation Procedure (Scotland) Act 1936, which provides a cheaper and more convenient method for obtaining Parliamentary powers than by private bill. Another responsibility is the State Management of liquor supplies in the Cromarty and Gretna State Management Districts. The local administration in each of these Districts is advised by a local advisory committee; a State Management Districts Council advises the Secretary of State and the Home Secretary (who is responsible for the administration of the Carlisle State Management District) on general policy in the running of the organisation.

"Legal" functions

46. The Department is responsible for the organisation and staffing of the Scottish courts (other than the burgh and J.P. courts) and is concerned with all matters affecting their civil or criminal jurisdiction. Comprehensive proposals for the reorganisation of sheriff court business are at present under consideration. Statutory responsibility for the day-to-day administration of the legal aid schemes is vested in the Law Society of Scotland but broad questions of policy concerning, for example, the financial and other conditions on which legal aid is made available are the responsibility of the Department which in these matters works in close touch with the Lord Chancellor's Department and the Home Office (responsible for civil and criminal legal aid respectively in England and Wales). The conditions on which legal aid is provided are broadly the same on both sides of the Border but there are distinctive features derived from the traditions of Scottish law; and there is no statutory provision for contributions by accused persons towards the cost of criminal legal aid in Scotland. As the scope of legal aid has increased, net expenditure on the statutory schemes in Scotland has risen from £80,000 in 1951/52 to £1,012,000 in 1967/68. (The corresponding figures for England and Wales are £260,000 and £9,452,276.)

47. The Secretary of State is responsible jointly with the Lord Advocate for appointing members of the Scottish Law Commission, for approving its programmes of law reform and for considering its reports. This responsibility is discharged through the Department, which is thereby involved in the consideration of proposals for legislation on a wide variety of subjects. In recent years, these have included intestacy, marriage and divorce, legitimisation and the succession rights of illegitimate persons. Reports are awaited from the Commission on the five branches of the law which comprise their first Programme: evidence, obligations, prescription and limitation of actions, judicial precedent and the interpretation of statutes. The Department has also to consider, and advise the Secretary of State upon the implications of proposals for law reform emanating from the Lord Chancellor's Office and other Whitehall Departments. The feudal system of land tenure in Scotland has been the subject of intensive examination in the Department in the last two years and work is proceeding on both short-term and longer-term proposals for altering the law relating to land tenure and for improving conveyancing law and practice.

Other functions

48. The Department is concerned with the superannuation schemes for local government, police and fire services.

49. The Department also exercises general control over the staffing etc. in several minor Departments, viz. the Department of the Registers of Scotland, the Scottish Record Office, the Scottish Land Court, the Accountant of Court and the Lyon Office. The work of these Departments is described in a separate note. (See ANNEX 3.)

Publications

50. The Department's publications include annual reports on health services, prisons, police and fire services, the last two being prepared by the H.M. Inspectors. Annual statistics for health, crime and civil judicial proceedings are also published; as are the reports submitted to the Secretary of State by such bodies as the Scottish Health Services Council and the Law Society (in respect of legal aid). Various papers are circulated to the National Health Service, such as occasional notes on the planning and equipment of hospitals, and the quarterly Health Bulletin (on current developments) edited by the Chief Medical Officer.

PART VI

THE MACHINERY OF ECONOMIC PLANNING IN SCOTLAND

Scottish Economic Planning Council

1. The Scottish Economic Planning Council was set up in March, 1965 as the Secretary of State's main external source of consultation and advice on matters affecting Scotland's economic development. It consists of 23 members and a Vice-Chairman appointed by the Secretary of State, who acts as Chairman. The Planning Council is an advisory and consultative body: it has no executive powers. Members are selected primarily for the individual contribution they can make to the Council's discussions and include people with wide experience of local government, industrial management, trade unions, finance and the universities. The Council's main functions are to assist in the formulation of plans for the development of the Scottish economy; to advise on the steps necessary for the implementation of these plans; and to advise on the implications of national economic policies.

2. The Council maintains close contact with the economic planning regions in England and Wales and with Northern Ireland, e.g. through meetings of the Chairmen of the Planning Councils under the Chairmanship of the Secretary of State for Economic Affairs. At these meetings the Council is usually represented by the Vice-Chairman.

3. The Council has found it useful to establish three Committees. The Industrial Committee concerns itself with industrial development in the widest sense. The Regional Committee examines and reports on the studies prepared from time to time of particular parts of Scotland, and also on particular projects of major significance to the Scottish economy. The Transport Committee consists not only of members of the Council but of representatives of the transport industry; its function is to promote the co-ordination of transport facilities serving Scottish needs, and to assist the Council in advising on questions relating to all forms of passenger and freight transport.

Consultative Groups

4. The White Paper on the Scottish Economy 1965-70 was based on an analysis of five broad regions: Central Scotland, the Highlands, the Borders, the South-West and the North-East. This last area was considered to have two distinct parts, one based on Dundee and the other on Aberdeen. Each of these regions has its own economic characteristics. This pattern is reflected in the statutory area of responsibility of the Highlands and Islands Development Board and in the areas of interest of the local economic planning consultative groups for the North-East, the Borders, the South-West and Tayside.

5. The Consultative Groups are advisory bodies set up in 1966 to help in elaborating and implementing the White Paper's proposals for the regeneration of the Scottish economy. In a sense they are local economic planning councils, with members appointed by the Secretary of State and drawn from both sides of industry and commerce, from agriculture, from the local authorities and from academic life. They are thus intended to create in each region a corporate awareness of the region's economic problems and potentialities, and to promote a two-way flow of ideas and information between central government and the localities.

Scottish Economic Planning Board

6. The Board was set up in January, 1965. It is a co-ordinating body made up of senior officials of the four Departments of the Scottish Office and of all the other Departments concerned with the economic and physical development of Scotland. These include the Board of Trade (who are represented both by their Principal Controller (Scotland) and by their Scottish Controller (Civil Aviation)), the Department of Employment and Productivity, the Ministries of Defence, Power, Public Building and Works, Technology and Transport, the Forestry Commission, the Registrar General, the Land Commission and the Post Office.

7. The Assistant Under-Secretary of State in charge of the Regional Development Division of the Scottish Office acts as the Board's Chairman. Liaison with the similar Planning Boards in England and Wales and with Northern Ireland is maintained through periodic meetings of all Chairmen of Planning Boards, under the Chairmanship of a senior official of the Department of Economic Affairs in London. The Chairman of the Board attends meetings of the Scottish Economic Planning Council, whose Vice-Chairman attends meetings of the Board.

8. The Board's main task is to co-ordinate the work of the Departments concerned with economic planning and development, to assess the physical, industrial and economic potential of Scotland and of its economic regions, and to submit its conclusions as the basis for economic planning in Scotland. It therefore played a large part in the work of preparing and drafting the White Paper on the Scottish Economy 1965-70 (Cmnd. 2864). Through the Board, the separate Departments, while each remains responsible to its own Minister, pool their ideas and proposals. The Board is thus the main official instrument for ensuring that the various developments which contribute to economic growth are kept in step. In particular, it is the responsibility of the Board to provide information and assessments for the Scottish Economic Planning Council and the Secretary of State.

Economic Consultants

9. The Secretary of State is advised on economic matters not only by officers of the Scottish Office but by a group of Economic Consultants. These are at present five Professors of Economics, drawn from the Universities of Glasgow, Strathclyde, Edinburgh, Dundee and Aberdeen. They meet regularly under the chairmanship of the Permanent Under-Secretary of State, and they take it in turn to attend meetings of the Planning Council.

Regional Development Division

10. The Regional Development Division of the Scottish Office is not an executive department with statutory functions, but consists of a small co-ordinating group of officials under an Assistant Under-Secretary of State. It reports to Ministers through the Permanent Under-Secretary of State. The division at present consists of 46 non-industrial staff, including economists and with access to statistical and other relevant professional advice.

11. Apart from providing the secretariat and other services for the Planning Council and its Committees, for the Planning Board, for the Economic Consultants and for the Consultative Groups, the Division is concerned with the Scottish interest in a wide range of economic questions affecting Great Britain as a whole. This function is derived partly from the role now given to the

Secretary of State in preparing plans for economic development in Scotland and partly from the public expectation that the Secretary of State should interest himself in any matter affecting Scotland, whether or not it comes within the scope of his statutory responsibilities.

12. The Secretary of State requires to be fully informed on a wide range of economic matters, and it is the Division's responsibility to provide this information by gathering it from the various Departments responsible and identifying the main Scottish interests. Thus the work of the Division is directed towards assisting the Secretary of State to ensure that Government initiatives in economic questions in Scotland are properly co-ordinated and directed in ways which take full account of Scotland's economic problems and potential. The Division accordingly maintains close contact with the main economic departments, including the Treasury and the Department of Economic Affairs.

July, 1969.

HISTORICAL BACKGROUND

1. Before the Union of Scotland and England in 1707, Scottish affairs were administered for the Crown by the Scottish Privy Council. The officers of State, such as the Secretary, Treasurer, Chancellor and Advocate, were not only influential members of the Privy Council but sat and voted *ex officio* in the Estates (the Scottish Parliament) and in the powerful executive committee of the Estates known as the Lords of the Articles.

2. From 1707 to 1745, the responsibility for Government business in Scotland rested with one of the Secretaries of State in London. Thereafter this responsibility was in practice exercised mainly by the Lord Advocate; although in 1828 formal responsibility for Scottish affairs was assigned to the Home Secretary.

3. Under an Act of Parliament of 1885, the first Secretary for Scotland was appointed to exercise various functions previously carried out in Scotland by the Home Secretary, the Privy Council, the Treasury and the Local Government Board for England. He also became Vice-President of the Scottish Education Department, then nominally a Committee of the Privy Council, and became responsible to Parliament for the administratively independent Boards and Commissions then existing in Scotland. These were the Board of Supervision (later the Local Government Board for Scotland), the Fishery Board, the Prison Commission, and the General Board of Commissioners in Lunacy (later the General Board of Control for Scotland). After 1892 the Scottish Secretary was always a member of the Cabinet, except during the periods of the War Cabinets.

4. The period from 1897 to 1919 saw a further increase in the number of administratively independent Boards, for all of which the Secretary of State accepted Parliamentary responsibility. The Congested Districts (Scotland) Commissioners set up office in 1897, the Board of Trustees of the National Galleries of Scotland in 1906, the Scottish Insurance Commissioners in 1911, the Scottish Board of Agriculture in 1912, the Highlands and Islands (Medical Service) Board in 1913. The Scottish Board of Health was created in 1919 and took over the functions of the Local Government Board for Scotland, the Scottish Insurance Commissioners and the Highlands and Islands (Medical Service) Board, as well as certain other functions concerned with public health in Scotland.

5. The increased complexity and importance of Scottish affairs was recognised in 1926 by the elevation of the holder of the office of Secretary for Scotland to the rank of a Principal Secretary of State. In 1929 the Scottish Boards of Agriculture and Health and the Scottish Prison Commissioners were abolished and their statutory functions vested in three Departments—the Department of Agriculture for Scotland, the Department of Health for Scotland, and the Prisons Department for Scotland—each to act under the control and direction of the Secretary of State. These changes reflected the view that public administration should be entrusted where practicable to Ministers responsible to Parliament, rather than to autonomous boards.

6. A general review of Scottish administration by a Committee under the Chairmanship of the late Sir John Gilmour (Cmnd. 5563) led in 1939 to the Reorganisation of Offices (Scotland) Act, which vested the functions of these

three Departments, the Scottish Education Department, and the Fishery Board for Scotland in the Secretary of State. At the same time St. Andrew's House in Edinburgh was opened as the headquarters of the Scottish Office, Dover House in Whitehall being retained mainly as a base for Parliamentary work and liaison with Whitehall departments. This reorganisation created four Scottish departments (Agriculture, Education, Health, and Home) whose Secretaries became directly responsible to the Secretary of State ; while the Permanent Under-Secretary of State became his senior official adviser over the whole field but without departmental executive responsibilities.

7. During or after the war of 1939-45, the Secretary of State was given additional responsibilities for hydro-electricity, assistance to agriculture, the National Health Service, town and country planning, forestry, civil defence, child care and various other subjects. His functions in relation to insurance and pensions were, however, transferred to the Minister of National Insurance in 1948. In 1954 the Minister of Fuel and Power's responsibilities for the supply of electricity in Scotland, and certain functions previously exercised by the Minister of Food were transferred to the Secretary of State. Shortly after this, on the recommendation of the Royal Commission on Scottish Affairs (Cmd. 9212), he acquired responsibility for roads and bridges from the Minister of Transport, for certain animal health matters from the Minister of Agriculture and for the appointment of Justices of the Peace from the Lord Chancellor.

8. In 1960 and 1962 internal changes in the Scottish Office resulted in the constitution of the four departments in their present form: the Department of Agriculture and Fisheries for Scotland; the Scottish Development Department, which has functions relating to local government, town and country planning, housing, roads, environmental services, electricity, and (since 1968) passenger transport and Highland development; the Scottish Education Department; and the Scottish Home and Health Department, which discharges the Secretary of State's responsibilities for health services, law and order.

9. In 1964 the Regional Development Division of the Scottish Office was set up to co-ordinate the work of the various departments—both Scottish and G.B.—concerned with economic development. It operates separately from the four Scottish departments and reports to the Secretary of State through the Permanent Under-Secretary of State. The main forum of interdepartmental consultation is the Scottish Economic Planning Board, consisting of representatives of all the departments concerned, under a Scottish Office Chairman. The Board operates in close consultation with the specially appointed Scottish Economic Planning Council, first established in 1965, which advises the Secretary of State on economic matters, and of which the Secretary of State himself is Chairman.

10. In 1966 the Minister of Public Building and Works' responsibility for the Historic Buildings Council for Scotland, and in 1969 his responsibility for ancient monuments, royal parks and palaces were transferred to the Secretary of State: both are exercised through the Scottish Development Department, except that the Royal Botanic Garden in Edinburgh is administered through the Department of Agriculture and Fisheries for Scotland. In 1967 the Social Work Services Group was set up to reorganise the services whose future is regulated by the Social Work (Scotland) Act, 1968; the Group is now attached to the Scottish Education Department.

11. As the Secretary of State's responsibilities have increased, so has the strength of his ministerial team. In 1919 the office of Parliamentary Under-Secretary for Health for Scotland was created; it was replaced in 1926 by that of

Parliamentary Under-Secretary of State, and in 1940 provision was made for the appointment of two Joint Parliamentary Under-Secretaries of State. In 1951 a Minister of State was appointed as deputy to the Secretary of State, and a third Joint Parliamentary Under-Secretary of State was appointed under the Ministers of the Crown (Parliamentary Under-Secretaries) Act passed in the same year.

12. In the House of Commons, Scottish Bills have been referred to the Scottish Standing Committee for the Committee Stage since 1907. In 1948 a procedure was introduced for the reference of Scottish Bills to the Scottish Grand Committee for "consideration in principle" and also for the consideration in that Committee of Scottish Estimates for six days in each session ; two days for consideration of particular topics were added in 1957. A Second Standing Committee was first established by sessional order in 1963, and embodied in Standing Orders in 1968. Provision for considering the report stage of a Bill in Scottish Grand Committee has been made in Standing Orders since 1967, but has not yet been used.

BODIES FOR WHICH THE SECRETARY OF STATE FOR SCOTLAND IS JOINTLY RESPONSIBLE WITH OTHER MINISTERS

The Crown Estate Commissioners

1. The Crown Estate represents the hereditary possessions of the Crown and includes not only a large acreage of rural land but also very valuable urban property, much of the foreshore around the coasts of the United Kingdom, some mineral and other rights, and a portfolio of Government securities. The Scottish part of the Estate consists of rural land in the Counties of Banff, Caithness, Dumfries, Moray and Stirling extending to about 75,000 acres as well as extensive stretches of salmon fishings around the coast and in the rivers, feu duties issuing out of Charters granted by the Crown in ancient times covering privately owned land and estates in almost every county, and the ownership of a number of surplus teinds. Since 1760 the hereditary revenues of the Crown have been placed at Parliament's disposal, and the management of the Crown Estate therefore entails a dual responsibility—to the Sovereign for preserving, and if possible augmenting, the capital value of the Estate; and to Parliament for paying into the exchequer each year the highest possible net revenue consistent with good management.

2. For many years these duties were carried out by "Commissioners of Woods, Forests and Land Revenues", or, as they were called after a change in title in 1924, "the Commissioners of Crown Lands". The land revenues of Scotland were placed under their management between 1832 and 1835, when the Barons of Exchequer, in whom the management had previously been vested, ceased to exist. Two of the Commissioners were Ministers, one of whom was the Secretary of State for Scotland, and the third was a Permanent Commissioner, who was a civil servant.

3. Following the Crown Estate Act 1956 (later superseded by the Crown Estate Act 1961) a new managing board was set up consisting of not more than eight Commissioners appointed by Her Majesty by warrant. One of the Commissioners had special responsibilities for the Scottish properties which form part of the Crown Estate.

4. Whereas previously there were Ministerial Commissioners and the Treasury held a general power of direction over them the Act of 1961 places the general duty of maintaining the Crown Estate on the Crown Estate Commissioners subject to compliance with directions by the Chancellor of the Exchequer or the Secretary of State for Scotland; the Chancellor and the Secretary of State act jointly but in matters relating exclusively to Scotland the Secretary of State may act without the Chancellor—the converse applies for matters not relating to Scotland. Any such directions must have regard to the requirements of the 1961 Act relating to the general duties of the Commissioners which are, in managing the Crown Estate, to maintain and enhance its value and the return obtained from it, but with due regard to the requirements of good management.

5. The Commissioners submit an annual report to Her Majesty which is laid before each House of Parliament.

The Forestry Commission

6. The Forestry Commission, which was set up in 1919, is the Forest Authority for Great Britain and acts under the direction of the three forestry Ministers — the Secretary of State for Scotland, the Minister of Agriculture, Fisheries and Food, and the Secretary of State for Wales.

7. Under the Forestry Acts 1919 and 1963 (now consolidated in the Forestry Act 1967), the Forestry Commissioners are charged with the general duties of promoting the interests of forestry, the development of afforestation, the establishment and maintenance of adequate reserves of growing trees, and the production and supply of timber in Great Britain. The Commissioners have been given statutory powers for the exercise of these main duties and numerous ancillary functions, which include the management of land placed at their disposal; the establishment, maintenance and protection of forests; the purchase, conversion and sale of timber; the administration of various forms of grant aid to those engaged in private forestry; and control over the felling of trees by a system of licensing which includes the means for ensuring the re-planting of land on which authorised tree-felling takes place. The Commission's forest estate is managed with the main object of obtaining the highest financial return but in preparing their programmes and in the conduct of operations the Commission pay special regard to the improvement of landscape beauty and the growing demand for public access and recreation in the forest areas.

8. The salaries and expenses of the Commission, including capital payments in acquiring land for forestry purposes, are defrayed out of a fund called "The Forestry Fund" into which are paid moneys voted by Parliament by way of grants-in-aid and all other moneys received by the Commission. The Commissioners prepare and publish an annual report and annual accounts, including a Trading Account and Balance Sheet.

9. All land acquired out of the Forestry Fund in Scotland is vested in the Secretary of State. The total area of land in Scotland acquired out of the Forestry Fund at 31st March, 1969 was about 1,750,000 acres, of which over 825,000 acres were under plantations, and 232,000 acres were awaiting planting. The remainder consisted of 8,000 acres of forest workers' smallholdings, 390,000 acres of agricultural land, 300,000 acres of miscellaneous and unplanted land, and a small area of forest nurseries. Agricultural land which is not to be planted in the near future is normally managed by the Department of Agriculture and Fisheries for Scotland.

10. The Commissioners include a part-time executive Chairman, five other part-time Commissioners and four full-time executive Commissioners, namely the Director-General, who is also the Deputy Chairman and Accounting Officer, and three others who are responsible for administration and finance, forest and estate management, and harvesting and marketing, respectively. Headquarters staff, including a Senior Officer for Scotland who is responsible *inter alia* for maintaining contact with the Scottish government departments and Scottish organisation, are stationed in Edinburgh to ensure that business arising in Scotland shall so far as practicable be disposed of there. Scotland is divided into four territorial Conservancies, each under the charge of a Conservator of Forests, with offices at Inverness, Aberdeen, Glasgow and Dumfries.

11. The Commissioners have appointed a National Committee for Scotland, and also maintain a Regional Advisory Committee for each of the four Conservancies, to advise on the effects of forestry operations on the countryside, on the Commission's relationships with other land users and on the development of facilities for recreation in the Commission's Forest Parks and forests. The Commission have established four Forest Parks in Scotland, one in Argyll, one at Glentool in Galloway, one at Glenmore in the Cairngorms of Inverness-shire, and the Queen Elizabeth Park in the Trossachs. In Roxburghshire two of the Commission's Scottish forests have been joined with forests in England to form the Border Forest Park.

12. The Commission's annual programme of new planting in Scotland is at present about 36,000 acres and this is to be raised to 50,000 acres by 1976. The production of timber from the Commission's forests in Scotland already amounts to about 15 million hoppus feet, or about 450,000 tons, annually, and this output is expected to increase to one million tons by about 1980.

13. The Commission provides grants and technical advice for private forestry. There are three grant schemes, the Dedication scheme, under which the woodlands are legally dedicated to forestry and the owner undertakes to manage them in accordance with a plan approved by the Commission; the Approved Woodlands scheme, for which an approved plan is also prepared, although there is no legal obligation; and the Small Woods scheme. Under all three schemes a standing planting grant is paid; and owners of dedicated land also receive an annual management grant. Private planting with the aid of grants amounted to about 23,000 acres in the 18 months to 31st March, 1969.

14. Felling in private woodlands, with some exceptions, requires licences issued by the Commission. Licences, where appropriate, are subject to replanting conditions which can be legally enforced.

15. The Commission carries out research in all branches of forestry operations; on tree diseases and pests; and on the improvement of forest trees by selection and breeding. The Commission makes grants to aid research at Universities and research stations of other bodies. The Commission's research work is organised in two territorial divisions, one for Scotland and Northern England, and the other for the rest of England and Wales. A new Research Station for the division serving Scotland and Northern England is now under construction at the Bush Estate near Edinburgh.

16. The Commission works in close consultation with the Department of Agriculture and Fisheries for Scotland and other Scottish departments, including the Countryside Commission for Scotland, the Red Deer Commission and the Crofters Commission, and with public authorities concerned with land use and planning and development in the countryside, such as the Highlands and Islands Development Board. There are also close contacts between the Commission and independent organisations such as the Scottish Woodland Owners' Association, the Scottish Landowners' Federation, the Royal Scottish Forestry Society and the Home Timber Merchants' Association of Scotland.

The Land Commission

17. The Land Commission, which is appointed by the Secretaries of State for Scotland and the Minister of Housing and Local Government, was established by the Land Commission Act 1967 with the duty of collecting a levy

on the development values realised by the development of land and its sale or lease for development. The Commission also has powers to buy land which it is necessary in the public interest to make available for development. The Commission is a Great Britain body with an office in Scotland at Cumbernauld. The Secretary of State is not concerned with its day-to-day administration, but has powers to make regulations (either separately for Scotland, or jointly with his colleagues for the whole of Great Britain) affecting various matters on the collection and calculation of levy. He may also give the Commission directions about aspects of the conduct of its operations in Scotland, such as the priorities it should observe in purchasing land to make it available for development.

MINOR SCOTTISH DEPARTMENTS

Accountant of Court

1. The Accountant of Court, who is an Officer of the Court of Session, is appointed by the Secretary of State on the nomination of the Lord Advocate. He is responsible for the supervision of the conduct of those appointed judicial factor or *curator bonis* in the Court of Session and in the Sheriff Court, and of trustees in bankruptcy in sequestrated estates.

Assessor of Public Undertakings (Scotland)

2. The Assessor of Public Undertakings (Scotland), who is appointed by the Secretary of State, assesses the annual value for rating purposes of a number of public undertakings, including the British Transport Docks Board, the British Waterways Board, the Clyde Port Authority and the Scottish Gas Board.

Department of the Registers of Scotland

3. The Department is concerned with the registration of a wide range of legal documents, including the General Register of Sasines which forms the chief security in Scotland of rights in land and other property. The Keeper of the Registers, who is appointed by the Secretary of State with the consent of the Lord President of the Court of Session, is also Deputy Keeper of the Seal appointed by the Treaty of Union to be kept and made use of in Scotland in place of the Great Seal of Scotland.

General Register Office for Scotland

4. The General Register Office is under the charge of the Registrar General for Scotland, whose responsibilities include the administration of the statutes relating to the registration of births, deaths and marriages and the censuses of population. Registers of births, deaths and marriages are compiled by Registrars who are appointed by local authorities but are directly responsible for their work to the Registrar General, who also authorises certain local registrars to conduct civil marriages. In addition to census statistics, reports on vital statistics are published weekly, quarterly and annually, and estimates of the population are published annually.

Lyon King of Arms

5. Lyon King of Arms is appointed by the Crown and is responsible for conducting matters relating to Royal and public ceremonial in Scotland. He advises the Crown and the Secretary of State in matters connected with armorial bearings and cognisances, and has jurisdiction over questions of genealogy, titles, ranks and precedence. His staff includes the Lyon Clerk, three Heralds and three Pursuivants.

National Institutions in Scotland

6. The cost of maintaining the Royal Scottish Museum, the National Galleries of Scotland, the National Library of Scotland and the National Museum of Antiquities of Scotland is met from Central Government funds, and they each receive annual grants-in-aid for the purchase of works of art and other objects.

- (a) *The Royal Scottish Museum*, Edinburgh, is for administrative purposes part of the Scottish Education Department. The Museum is in the charge of a Director and comprises four departments—Art and

Archaeology; National History; Technology; and Geology. The collections are extensive and the aim of the Museum is to present to the public in Scotland a selection of exhibits which are widely representative of the field with which they deal. Facilities for reference and study are offered as well as special lecture and other facilities for adults and school children. Temporary exhibitions of national and topical interest are arranged.

- (b) *The National Galleries of Scotland* are administered by a Board of Trustees, appointed by the Secretary of State, which is responsible for the management of the National Gallery of Scotland, the Scottish National Portrait Gallery, the Department of Prints and Drawings, and the Scottish National Gallery of Modern Art, all in Edinburgh. The National Gallery contains paintings of many of the leading artists of the European schools and more comprehensive representation of Scottish artists up to 1900. The Portrait Gallery illustrates Scottish history through contemporary portraits. The Print Room has an extensive collection of prints and drawings with special emphasis on Scottish work. The Gallery of Modern Art contains 20th century paintings, sculpture, drawings and prints of all schools, with an emphasis on Scottish painting.
- (c) *The National Library of Scotland* is administered by a Board of Trustees of whom 12, including the Secretary of State, are appointed *ex officio* and 5 are appointed by the Crown on the recommendation of the Secretary of State. The Library, which was established on the foundation of the Library of the Faculty of Advocates, and is one of the "copyright libraries" which receives copies of all books under the Copyright Act 1911, now consists of about 3m printed books. It is primarily a reference library but lends books on specified conditions to other libraries, galleries or museums.
- (d) *The National Museum of Antiquities of Scotland* is administered by a Board of Trustees, subject to certain powers vested in the Secretary of State. The Chairman and eleven members are appointed by the Secretary of State, four by the Society of Antiquaries and one by the senatus of each of the four oldest Scottish Universities. The President of the Society of Antiquaries and the Professor of Prehistoric Archaeology in Edinburgh University are members *ex officio*. The museum, which derives from the collection in the Society of Antiquaries' private museum founded in 1790, houses an important collection of antiquities, coins and other relics dating from the remotest past to recent times.

Northern Lighthouse Board

7. The Commissioners of Northern Lighthouses, who are responsible for the management of lighthouses, buoys and beacons throughout Scotland and the Isle of Man, are appointed *ex officio* under an Act of 1786. This work is financed by the levy of light dues on shipping calling at United Kingdom ports, which are at present collected by the Customs and Excise. The Commissioners maintain four ships for the relief and storing of lighthouses.

Royal Commission on Ancient and Historical Monuments in Scotland

8. The Royal Commission consists of eight members who are appointed by the Crown on the recommendation of the Secretary of State. It prepares inventories of ancient and historical monuments on a county basis. Since

1966, the Commission has also been responsible for the National Monuments Record of Scotland, under which emergency surveys are made of threatened buildings of special architectural or historic interest in areas not yet covered by the inventory.

The Royal Fine Art Commission for Scotland

9. The Commission consists of eleven members appointed by the Crown on the recommendation of the Secretary of State. It advises Government departments and other public bodies on questions of public amenity or of artistic importance, and may call their attention to any new project or development which might affect amenities of a national or public character.

Scottish Record Office

10. The Scottish Record Office is under the charge of the Keeper of the Records of Scotland, who is appointed by the Secretary of State with the consent of the Lord President. He is Chairman of the Scottish Records Advisory Council, and is responsible for the custody of many classes of public records, administrative and legal, from the 13th century onwards. The office also accepts private collections of historical papers for preservation and research, and advises Government departments, courts and local authorities on the preservation of records.

ANNEX 4

ORGANISATION IN SCOTLAND OF THE PRINCIPAL GREAT BRITAIN DEPARTMENTS OF RELEVANCE TO THE COMMISSION'S WORK

(See Paragraph 13 of Part I)

Department of Economic Affairs

1. The functions of this Department that are of Scottish significance are its functions as co-ordinator of various aspects of economic, industrial and regional policies, which are naturally carried out in London. In England the Department also maintains regional offices, but the corresponding functions in Scotland are carried out by the Scottish Office (see paragraphs 16-18 below).

Department of Employment and Productivity

2. The Scottish Controller of the Department, who is stationed in Edinburgh, is responsible for the administration of the following services in Scotland:—

- (1) Provision of employment services through 150 employment exchanges and other local offices in Scotland.
- (2) Vocational training of adults at Government Training Centres.
- (3) The Youth Employment Service, which is operated in some areas by the Department and in others by education authorities.
- (4) Employment and training of disabled persons.
- (5) Development of industrial training.
- (6) Prevention and settlement of industrial disputes.
- (7) Provision of an advisory service to industry on manpower and productivity questions.

3. The Department's Superintending Inspector of Factories who is stationed in Glasgow, is responsible for the administration and enforcement of the laws relating to the safety, health and welfare of workers employed in factories, shops, offices and certain other premises. Factory inspectors in eleven district offices are available for consultation on these matters.

Post Office

4. The Director of the Postal Headquarters in Edinburgh controls postal services throughout Scotland. There are five telephone areas in Scotland, for which the Director of Telecommunications Headquarters in Edinburgh is responsible.

5. The Post Office Bill at present before Parliament provides for the reconstitution of the postal and telecommunications services as a nationalised industry. It is also intended to transfer from the Post Office to the Treasury responsibility for the Department for National Savings, whose Savings Bank Division is in course of being moved from London to Glasgow.

Ministry of Power

6. The Ministry maintains in Edinburgh an office for Scotland and the Northern Region (of England). Although policy decisions are taken in London the Edinburgh office is brought into consultation where Scottish questions arise, and the office maintains close liaison with the National Coal Board

(and the independent solid fuel producers and distributors), the Scottish Gas Board, the British Steel Corporation and the various iron and steel and petroleum companies in the private sector. The Ministry is also responsible for the safety, health and welfare of miners and quarry workers, and in this field is represented in Scotland by a Divisional Inspector of the Mines Inspectorate. The Ministry has examiners in Scotland for the testing of gas and of gas and electricity meters.

Ministry of Technology

7. The Senior Officer for Scotland of the Ministry, whose office is in Edinburgh, is responsible for maintaining close links with the industries in Scotland with which the Ministry is particularly concerned, i.e. the mechanical and electrical engineering, ship building, vehicles and aerospace industries. He provides the Scottish Office and the Scottish Economic Planning Board with information and advice about such industries, and advises the Board of Trade on applications made by firms in these industries for Industrial Development Certificates and Investment Grants.

8. The Ministry's office in Scotland provides a service to industry by assisting firms to identify opportunities for technological advance and increased efficiency. It encourages them to make full use for this purpose of the resources of the Ministry, including its Research and Development establishments and its productivity services. The Senior Officer co-ordinates work of the Industrial Liaison Centres which have been set up at certain of the universities and colleges in Scotland.

9. In addition to the office in Edinburgh, two of the Ministry's Industrial Research Establishments are located in Scotland, viz. the National Engineering Laboratory at East Kilbride and the Torry Research Station at Aberdeen.

Board of Trade

10. The Board of Trade has an Office for Scotland in Glasgow and a sub-office in Inverness, both under the supervision of the Principal Controller for Scotland. He is responsible for the administration of the following aspects of the Board's work in Scotland:—

- (i) Location of industry, where the Controller has substantial delegated powers to grant the industrial development certificates without which an industrialist cannot obtain planning permission under the Town and Country Planning (Scotland) Acts to establish or expand his business. He also advises the Board of Trade on applications for financial assistance under the Local Employment Acts.
- (ii) The promotion of exports, which is non-statutory, and which consists essentially of providing a chain of information between an exporter and his market overseas, in consultation with the Board of Trade's Export Services Branch and the diplomatic service.

11. In addition the Principal Controller has many representational functions. He is, for example, the Board of Trade's representative on the Scottish Economic Planning Board and he is an assessor on the Scottish Economic Planning Council. He represents the Board of Trade in contacts with the Scottish Office and he is responsible for advising the Board on the effect of their policies on industry in Scotland.

12. The following functions of the Board of Trade, which are of a more specialised character, are separately administered:—

- (1) *Civil Aviation.* The Scottish Controller, whose office is in Edinburgh, is responsible for providing assistance and advice on civil aviation matters in Scotland, for the promotion of safety and efficiency in the use of civil aircraft, for the operation of the airports at Edinburgh, Aberdeen and in the Highlands and Islands, and for the provision of air navigation services in Scotland. The Scottish Advisory Committee for Civil Aviation, which is appointed by the President of the Board of Trade, has the statutory responsibility for advising the Air Transport Licensing Board on applications for air services from, to or within Scotland with particular regard to local circumstances and requirements.
- (2) *Marine Survey.* The Marine Survey offices at Glasgow and Leith undertake the surveying of ships to ensure compliance with the law relating to safety and seaworthiness.
- (3) *Mercantile Marine.* At almost every port in Scotland there is a Mercantile Marine Office to carry out functions under the Merchant Shipping Acts, particularly in connection with the engagement and discharge of seamen and fishermen.
- (4) *Investment Grants.* An office in Glasgow has delegated powers to make grants towards expenditure incurred by industry in the provision of certain capital assets in Scotland, and is also responsible for the enforcement of conditions under which the grants are paid.
- (5) *Export Credits.* The Export Credits Guarantee Department, which is a separate department of the Board of Trade, has offices in Glasgow and Edinburgh to advise firms on credit insurance facilities for British exports of goods and services.

Ministry of Transport

13. The Ministry maintains a number of staff in Scotland in connection with the licensing and testing of vehicles and drivers under the Road Traffic Acts. The Traffic Commissioners for Scotland, who are appointed by the Ministry of Transport, are responsible for the licensing of bus services. The Chairman of the Traffic Commissioners is also the Licensing Authority for goods vehicles. None of the Ministry's functions in relation to railways or ports are carried out by offices in Scotland.

Treasury

14. The Treasury is represented in Scotland for certain limited purposes by the Queen's and Lord Treasurer's Remembrancer, who makes payments from the Consolidated Fund (legal salaries, etc.) and from the various Votes of Parliament administered by the Scottish departments. He is the Accounting Officer for the Vote for Law Charges and Courts of Laws, Scotland, and carries out functions with regard to banking and receipts and payments of money similar to those of the office of the Paymaster General. He is also Registrar of Companies, Registrar of Limited Partnerships, Registrar of Business Names, Keeper of the Edinburgh Gazette, administrator of treasure-trove and custodian of the Regalia of Scotland. He plays no part, however, in the central functions of the Treasury as regards the planning and control of public expenditure.

15. The Revenue Departments (Inland Revenue and H.M. Customs and Excise) maintain considerable establishments in Scotland (see Annex 5).

ANNEX 5

FUNCTIONS IN SCOTLAND OF OTHER GREAT BRITAIN DEPARTMENTS

Ministry of Agriculture, Fisheries and Food

1. The Ministry is responsible for animal health and sponsorship of the food processing industries throughout Great Britain, its other functions being limited to England and Wales. Because of the overriding necessity for prompt and concerted actions throughout Great Britain on outbreaks of epidemic diseases among animals, single control of operational measures against them is essential. The Ministry has responsibility throughout the United Kingdom for the supply and distribution of food in an emergency and for management of Government food stocks.

Civil Service Department

2. As noted in paragraph 22 of Part I, the Civil Service Department (including the Civil Service Commission) plays the same part in relation to Government Departments in Scotland as in relation to Government Departments elsewhere. This involves general questions of organisation, staffing and pay, including recruitment in those fields where this is done centrally (e.g. for the administrative class) and supervision of recruitment in other fields, and also approval of the most senior staff appointments. The Civil Service Department also takes the lead in negotiations with the Civil Service staff associations on the Civil Service National Whitley Council.

3. The only unit of the Civil Service Department in Scotland at the present time is a branch of Management Services Division in Edinburgh. This branch is engaged mainly in providing the Scottish departments with advice on organisation and methods.

H.M. Customs and Excise

4. H.M. Customs and Excise is fully responsible in Scotland, as in England and Wales, for the collection of import duties and indirect internal taxation. It operates under the general direction of the Chancellor of the Exchequer.

5. There are Collectors of Customs and Excise at four centres in Scotland, responsible through a chain of district and local offices for the collection in Scotland and at Scottish ports and airports of Customs and Excise duties and purchase tax.

Ministry of Defence

6. The Ministry of Defence is responsible for all matters relating to the military defence of the United Kingdom as a whole. This involves the maintenance of a considerable number of service establishments in Scotland, of which the following are the most important.

7. *The Flag Officer, Scotland and Northern Ireland*, is responsible for the administration of H.M. ships and Naval Establishments (excluding Royal Naval Air Stations which are administered by the Flag Officer Naval Air Command) within the Scotland and Northern Ireland Command. The many Fleet and Civil Shore Establishments include the Clyde Submarine Base at Faslane and H.M. Dockyard, Rosyth. The Ministry has officers in Glasgow who oversee the production in Scotland of ships and equipment for the Royal Navy.

8. *The General Officer Commanding Scotland* is responsible for the administration and training of the army in Scotland and has his headquarters at Edinburgh. He controls a number of military establishments including the Scottish Infantry Depots at Glencorse and at Aberdeen.

9. *The Senior Royal Air Force Officer in Scotland* is the Air Officer Commanding No. 18 Group Coastal Command with Headquarters at Rosyth. A number of RAF units in Scotland form part of the general strategic plan of defence and are accordingly controlled by their appropriate Commands.

10. The Ministry is also responsible for the Meteorological Office in Edinburgh, the Weather Information Centre in Glasgow, and other meteorological offices which provide information for aviation and the general public. There are two special observatories for meteorology, terrestrial magnetism and atmospheric electricity in Dumfriesshire and Shetland.

Department of Education and Science

11. The Department is responsible for government policy concerning university education throughout Great Britain, but its functions in relation to primary, secondary and further education relate only to England and Wales.

12. The Department is responsible for civil science policy for the whole of the United Kingdom and, under the Science and Technology Act 1965, for determining the resources from public funds of the five Research Councils.

13. *The University Grants Committee* advises on the allocation of grants to universities and is appointed by the Secretary of State for Education and Science after consultation with the Chancellor of the Exchequer and Secretaries of State for Scotland and for Wales. The Secretary of State for Scotland is consulted on university issues of special concern to Scotland, and is represented at meetings of the Committee by the Secretary of the Scottish Education Department as an assessor.

14. *The Agricultural Research Council* operates two Research Institutes and two units in Scotland (the Animal Breeding Research Organisation, the Poultry Research Centre, the Unit of Animal Genetics and the Unit of Statistics) as well as a number of others in England and Wales. The Council also advises on the research programmes and scientific policy of eight other research institutes in Scotland which are grant-aided by the Department of Agriculture and Fisheries for Scotland, one of whose senior officers is a member of the Council.

15. *The Medical Research Council* watches generally over the whole field of medical and related biological research. It gives long-term financial support for major research projects by the establishment of research units, of which there are ten in Scotland at present, in selected hospital universities. It also supports research groups, of which at present there are seven in Scotland, within existing departments in universities or hospitals. Among the assessors to the Council is the Chief Medical Officer of the Scottish Home and Health Department.

16. *The Natural Environment Research Council* is responsible for supporting and undertaking research in earth sciences, ecology and oceanography. Its component bodies include the Institute of Geological Sciences, whose Scottish Headquarters organises the Geological Survey of Scotland; the Institute of Hydrology, which was set up to undertake studies of the complete hydrological cycle in certain limited catchment areas; the National Institute of Oceanography, which undertakes research into wave motion and other processes in the sea; the

Research Vessel Unit; and the Nature Conservancy, whose Scottish Headquarters is responsible among other things for the management of two research stations and thirty-seven national Nature Reserves in Scotland. The Council also supports the work of the Scottish Marine Biological Association, and advises the Department of Agriculture and Fisheries for Scotland on the research undertaken by the Department's Marine Laboratory at Aberdeen and Freshwater Fisheries Laboratory at Pitlochry.

17. *The Social Science Research Council* supports research in economics, psychology, sociology, education and related fields. One of the Scottish Education Department's Chief Inspectors of Schools is an assessor to the Council's Educational Research Board.

18. *The Science Research Council* supports research in astronomy, radio, nuclear physics and other fields of science and technology. One of its research establishments is the Royal Observatory, Edinburgh, which carries out research in astronomy, seismology and related fields. Two major research projects in Scotland supported by grants from the Council are the Glasgow University Linear Accelerator Project and the Scottish Reactor Centre, both of which are situated at East Kilbride.

Foreign and Commonwealth Office

19. Relations with foreign and commonwealth countries are conducted by the Foreign and Commonwealth Office for Great Britain as a whole. The Scottish Departments of course co-operate with the Foreign and Commonwealth Office in questions where identifiable Scottish interests arise e.g. fisheries, as do other Government Departments in London and elsewhere.

20. The only unit maintained by the Foreign and Commonwealth Office in Scotland is the Branch Passport Office in Glasgow which issues United Kingdom passports to applicants in Scotland. Applications for United Kingdom passports are also accepted on an agency basis by the local offices of the Department of Employment and Productivity.

Department of Health and Social Security

21. The Department's responsibilities in Scotland relate only to social security, its health functions being confined to England. Within the field of social security, it is responsible for the administration of war pensions and allowances, family allowances, national insurance, industrial injuries insurance and related schemes, and supplementary benefits. The Scottish Controller is responsible for the administration of the Department's policy and functions in Scotland, and shares in the determination of general policy where Scottish interests are affected. The Department has 131 local offices in Scotland, 22 public caller offices, and 15 local Advisory Committees. It also has War Pensions Offices in Edinburgh and Glasgow, with out-stations at Aberdeen and Dundee, and 14 War Pensions Committees which consider complaints from individual pensioners or claimants.

22. The Department has an office in Cumbernauld to deal with all claims, including those arising in England and Wales, for refund of Selective Employment Tax to certain persons who employ domestic or nursing help in private households.

Home Office

23. The functions of the Home Office in Scotland are limited to matters connected with aliens, Commonwealth immigrants, explosives and vivisection. Immigration Officers are stationed at certain ports and airports and one Inspector under the Cruelty to Animals Act is stationed in Scotland.

Board of Inland Revenue

24. The Board of Inland Revenue is fully responsible in Scotland as in England and Wales, for assessment and collection of direct taxation. It operates under the general direction of the Chancellor of the Exchequer.

25. The Comptroller of Stamps and Taxes is the Board's representative in Scotland. The Board consult him on Scottish aspects of questions of policy and have delegated to him certain executive functions for Scotland. Thus there fall under his control a number of local Collection Offices, which collect income tax, corporation tax and capital gains tax, and the Stamp Offices in Edinburgh and Glasgow.

26. A number of local Tax Offices, responsible to the Chief Inspector of Taxes in London, assess income tax, corporation tax and capital gains tax.

27. Estate Duty in Scotland is assessed and collected centrally by an office in Edinburgh. The Chief Valuer (Scotland) with a Headquarters Office and a number of local offices is responsible for the valuation of property for revenue purposes and also advises and assists Government departments and local authorities by furnishing valuations in connection with the acquisition, lease and sale of land.

Ministry of Public Building and Works

28. The Ministry of Public Building and Works is responsible for conduct of the Government's general relations with the building industry including the producers of building materials and components throughout Great Britain as a whole. Much of this work is carried out from London, but there is a separate Joint Advisory Panel for the Building and Civil Engineering Industries in Scotland, which serves as the formal means of consultation between the Ministry and the industries in Scotland.

29. In addition, the Ministry is responsible for the provision and maintenance of accommodation for the Government civil and armed services. This is administered for Scotland by a Headquarters Office in Edinburgh, with three Area Offices (Aberdeen, Rosyth and Glasgow), a sub-area (Edinburgh) and 24 Depots.

30. The Ministry also provides custody, maintenance and professional services for ancient monuments, Royal Parks and Palaces in Scotland for which the Secretary of State for Scotland is responsible.

Her Majesty's Stationery Office

31. Under the charge of the Director, Edinburgh, the Scottish Office of H.M. Stationery Office provides the full range of services to Government departments in Scotland that are provided to Departments in London and elsewhere. These include the supply of stationery and office requisites; the supply and maintenance of office machinery; printing, duplicating and photocopying services; and the sale of Government publications. The Office with its procurement and production sections, its warehouse, bookshop, printing works and bindery are all located in Edinburgh.

MEMORANDUM BY
THE LORD ADVOCATE'S DEPARTMENT AND
THE CROWN OFFICE

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THE CENTRAL GOVERNMENT OF SCOTLAND

Memorandum by the Lord Advocate's Department and the Crown Office

Introduction

1. The Union of 1707 left Scotland with a system of law separate from that of England and Wales but with no Scottish Lord Chancellor, and since then the Lord Advocate, whose office dates from the reign of James III, has been the only senior Minister who is necessarily a Scottish lawyer. Together with the Solicitor General for Scotland (who is associated with him) he is thus the Crown's principal adviser on all questions relating to the law and the administration of justice in Scotland, and he is concerned with all legal aspects of the Government's business as affecting that part of the Kingdom. The purpose of this Memorandum is to describe his departmental functions, and in doing so to attempt to explain the relationship between those functions and the functions of other relevant Departments of Government.

2. The Lord Advocate is one of the Officers of State of Scotland and an independent Minister*. Occasionally in the past he has been referred to in terms which suggest that he is part of "the Scottish Office"; but it is thought that in most such references the term "Scottish Office" has been used not in its normal sense, as meaning "the Office of the Secretary of State for Scotland" but as meaning "the whole Government of Scotland". Alternatively the thought behind such references may have been confused by the post-Union history of Scottish administration. As is well known there was a long period during which the Lord Advocate was, *de facto*, Scotland's only departmental Minister, exercising—on the departmental level—all the functions of the central government of Scotland, non-legal as well as legal†; and when in 1885 the departmental exercise of the non-legal functions was transferred to the Scottish Office it was natural that the Lord Advocate should continue to be involved in those functions by way of assistance to the Scottish Secretary—who in the early days had no Parliamentary Secretary and who was in any event sometimes a peer and not available for business in the House of Commons. Moreover the Lord Advocate was housed in the same building as the Scottish Secretary—no doubt a convenient arrangement having regard to the Scottish Secretary's need for the Lord Advocate's assistance in relation to the transferred functions. All this may have led to the idea that everything the Lord Advocate did—legal as well as non-legal—was done as assistant to the Scottish Secretary. In fact, however, there appears to be no foundation for the view that the legal functions of Scottish government were ever exercised in subordination to the Scottish Secretary (or the Home Secretary before him) except in so far as some of them were exercised in subordination to a Cabinet of which the Scottish

*He is regularly sworn as a Privy Counsellor on his appointment as Lord Advocate (unless so sworn previously).

†Lord Cockburn, in the Memorials of his Time, Chapter 3, quotes the following newspaper paragraph:—

"Arrived at Edinburgh—the Lord High Chancellor of Scotland, the Lord Justice General, the Lord Privy Seal, the Privy Council and the Lord Advocate, all in one post-chaise, containing only a single person".

Secretary (or the Home Secretary) was a member*. Nor does there seem to be any reason for thinking that the position in this respect was altered by subsequent legislation or when, in 1926, the Scottish Secretary became a Secretary of State.

3. In the foregoing paragraph a distinction has been taken between legal and non-legal functions, but there are some matters, particularly in the realm of lawyers' law, which perhaps cannot be allotted squarely to one or other of these two categories, and in relation to these it is not always easy to say whether departmental responsibility lies or ought as a matter of good government to lie with the Lord Advocate or with a non-legal Minister or with some kind of duumvirate. So far as is known no directives in this field have ever been issued by any Prime Minister. A separate but allied problem arises in relation to functions of a judicial/administrative kind—for example the organisation of the sheriff court system. In England all these problems are catered for by the existence of a Minister, namely the Lord Chancellor, who is a lawyer (indeed a judge) as well as a Minister, is free from departmental responsibility for social services and the conduct of prosecutions, and has under his command an adequate staff of lawyer/administrators. In Scotland, however, this solution is not available. An attempt to describe how these mixed and border-line functions are in fact dealt with will be found in paragraphs 16 to 19 below.

The Lord Advocate's function in relation to prosecutions

4. The best known of the Lord Advocate's functions are those which relate to the administration of the criminal law. Practically all prosecutions in the High Court of Justiciary and the various sheriff courts are Crown prosecutions and the entire responsibility for initiating and conducting them rests with the Lord Advocate and officers appointed by him. The only significant exceptions lie within a narrow statutory range, such as Customs and Excise and Factory Act cases, which are handled by officers of those Departments. Even in such cases, however, if the subject is of importance or complex, the Department concerned will ask the Lord Advocate or his officers to take over the prosecution. Prosecutions at the instance of private persons, though theoretically possible in certain limited circumstances, are extremely rare. The police do not prosecute; their responsibility is to investigate crimes and offences and to report the result of their investigations to the appropriate prosecutor. The Lord Advocate may issue instructions as to these reports.

5. The Lord Advocate's responsibility for prosecutions is different from the normal responsibility of a Minister for political acts. This, however, is a large subject and no attempt is made to enter on it here†.

6. All sudden and suspicious deaths are investigated under the direction of the Lord Advocate's officers; and the Lord Advocate may, and in certain types of case must, order formal inquiries, by sheriff and jury, into fatal accidents. For the purposes of these inquiries, and inquiries by certain other tribunals, it is the responsibility of the Lord Advocate to see that the available evidence is adduced.

*Section 9 of the Secretary for Scotland Act 1885 (c. 61) said:—

"Nothing in this Act contained shall prejudice or interfere with any rights, powers, privileges or duties vested in or imposed on the Lord Advocate by virtue of any Act of Parliament or custom".

†See Edwards, *the Law Officers of the Crown*, Chapters 10 and 11; Marshall and Moodie, *Some Problems of the Constitution*, pages 144 and 147 to 150; Mitchell, *Constitutional Law* (2nd Ed.), pages 197 and 207.

7. In these functions the Lord Advocate is assisted, at the centre, by the Solicitor General (who for this purpose derives his authority from the Lord Advocate, not directly from the Queen) and by a number of Advocates-depute, all of whom, together with the Solicitor General and Lord Advocate are known collectively as Crown Counsel. The Advocates-depute are not civil servants but part-time officers appointed by, and holding office during the pleasure of, the Lord Advocate personally. They are practising members of the Scots Bar and their commissions as Advocates-depute fall, subject to transitory arrangements, when the Lord Advocate by whom they were appointed leaves office. Crown Counsel are assisted by a permanent staff, headed by the Crown Agent. Their office (the Crown Office) is located in Edinburgh.

8. The local officers of the Lord Advocate and the local prosecutors in the sheriff courts in the various districts in Scotland are the Procurators-fiscal, who may be either solicitors or members of the Bar. In most districts these officers are whole-time and in the busier and larger districts they have deputies and staffs to assist them. In a few of the smaller and more remote districts they are part-time only. The whole-time Procurators-fiscal and their staffs are civil servants; the part-time are not. The latter usually conduct private practice as solicitors. The commissions in favour of Procurators-fiscal do not fall when a Lord Advocate demits office. The Procurators-fiscal investigate and institute proceedings for criminal offences within their districts, and all summary prosecutions in the public interest in the sheriff court are taken at their instance. The more serious crimes are investigated and reported by them to the Crown Agent for the consideration and instructions of Crown Counsel. Where a case is prosecuted in the High Court of Justiciary the trial is conducted by Crown Counsel. Procurators-fiscal are responsible for the investigations, mentioned in paragraph 6 above, into sudden and suspicious deaths, adduce the evidence for the inquiries into fatal accidents, and have a number of other miscellaneous functions, including the winding-up of estates which fall to the Crown as *ultimus haeres*.

The Public Interest

9. The Lord Advocate's duties as public prosecutor exemplify his function as guardian, on behalf of the Crown, of the public interest in the legal field. This interest is sometimes affected also by legal proceedings of a civil nature—for example, by petitions for the approval of *cy près* schemes to regulate the administration of charitable trusts and occasionally by proceedings for divorce—and in these cases the Lord Advocate has to decide whether it is necessary for him to intervene. In this, and in any intervention he considers necessary, he is assisted by the Crown Agent and Crown Counsel.

Legal advice and civil litigation

10. As Law Officers the Lord Advocate and the Solicitor General for Scotland are responsible for advising, when required, other Ministers on their rights and obligations under the law of Scotland (including the constitutional law and those branches, such as tax law, where the law of Scotland is the same as that of England and Wales); and when a Government Department is involved in important civil litigation in the superior courts the Lord Advocate (or the Solicitor General) if available acts as senior counsel for the Department. One of the Law Officers usually represents the Inland Revenue in appeals to the Exchequer Court in Edinburgh and to the House of Lords. Under the Crown Suits (Scotland) Act 1857 (c. 44) actions raised on behalf of, or against, a Government Department may be raised at the instance of, or, as the case may be,

directed against, the Lord Advocate himself, as a party—the latter of these facilities saving the would-be suitor from the sometimes difficult task of trying to discover which particular Department is concerned with the subject-matter in question.

11. In this field, too, the Lord Advocate is called upon to nominate in respect of nearly every Government Department suitable practitioners to act respectively as standing junior counsel and standing solicitor to the Department. In these cases generally—but not invariably—the work of the standing solicitor is confined to conveyancing and litigation and the official side of the Lord Advocate's Department is consulted by the Department on general questions requiring legal advice. For the preparation of legislation these Departments have no Scottish adviser corresponding to their English departmental legal adviser and so the Scottish Parliamentary Draftsman has usually to act, in that connection, as departmental legal adviser in addition to carrying out his work as a draftsman. Only two Departments, namely the Scottish Office and the Inland Revenue, have whole-time solicitors; though one of these, viz. the Scottish Office solicitor, acts, on the Lord Advocate's nomination, as standing solicitor to a number of other Departments in addition to his own.

Legislation

12. It is as Law Officers that the Lord Advocate and the Solicitor General for Scotland are concerned with advising Ministers about the legal correctness from the Scottish point of view of Government legislation affecting the law of Scotland, and the Lord Advocate is always a member of the Ministerial Committee which scrutinises proposed Bills. The Scottish Parliamentary Draftsmen, who are responsible in the first instance for this work to the Minister concerned, are incorporated within the Lord Advocate's Department and can bring points of legal or constitutional difficulty to his notice by direct consultation with him.

13. A point of general importance which arises in relation to legislative proposals intended to be the same for Scotland as for England and Wales is whether they should be drafted as two separate Bills or as a single Bill applying to both legal systems (in effect a Bill for an English Act and a Scottish Act combined in one document). In the latter case the Bill normally has to be drafted in the first instance by an English lawyer (one of the Parliamentary Counsel to the Treasury) from the point of view of English law, the resulting draft being then gone over by one of the Scottish Parliamentary Draftsmen, who produces such provisions as are necessary to replace or adapt those of the original provisions which cannot be adopted as they stand.

14. This process gives rise to the "Scottish application clause", a feature which, in the more distant past, used to cause great irritation to Scottish judges and practitioners and was the source of much criticism. In recent years, however, the incidence of complicated application clauses has greatly diminished and less criticism on this score has been heard. It is, of course, impossible—given a Parliament which has to cater for different systems of law—to avoid altogether cases where a single Bill (and therefore probably an application clause of some kind) is required; but the question whether in a case of this kind there should be one Bill or two is always considered very carefully and the question is one which concerns the Lord Advocate, as well as the Scottish Parliamentary Draftsman, very closely.

15. When either Law Officer is a member of either House of Parliament he has a duty to advise that House, if necessary, about the legal effect of any particular provision which the House is being asked to pass into law.*

Legal/Ministerial functions

16. As mentioned in paragraph 3 above there is a group of governmental functions of a legal/ministerial nature with which the Lord Advocate, as the only Scottish legal Minister, is necessarily concerned but as to which it is difficult, for historical reasons, to say clearly whether his concern is—

- (a) merely that of a legal adviser, or
- (b) that of a departmental Minister responsible for day-to-day decisions, or
- (c) that of a partner in a kind of duumvirate with the Secretary of State.

The principal matters in this group are the reform of private law (including co-operation in discussions for the international harmonisation of law of this kind); the organisation and administration of the courts of law and various judicial or quasi-judicial tribunals; and relations with the legal profession—for example, in the provision of legal aid. All these matters are dealt with in England by the Lord Chancellor, to whom there is for Scotland no corresponding Minister, i.e. one having legal qualifications and a first-hand knowledge of the legal profession but no involvement in either the social services or the administration of criminal justice.

17. In relation to the courts of law the nomination of persons for appointment as a Lord Ordinary, a sheriff or a sheriff-substitute lies in practice with the Lord Advocate and he is invariably consulted about the filling of any vacancy among the higher judicial offices. This follows from the fact that he alone has first-hand knowledge of the members of the legal profession from which these appointments are necessarily made. On the other hand the recommendations are submitted to the Queen by the Secretary of State, or in some cases by the Prime Minister. Similarly it is the Lord Advocate who in practice has to find lawyers to fill temporary gaps, caused by illness etc., in the manpower of the sheriff-court bench, although the interim appointments are actually made by the Secretary of State. Again, the Lord Advocate is the Minister who has the personal knowledge necessary for effectively initiating decisions on such matters as the alteration of the boundaries of sheriff court districts and the number of sheriff-substitutes required in any particular district, though the Secretary of State makes the orders embodying such decisions.

18. In the realm of domestic law reform the Scottish Law Commission is now the main source of inspiration and initiative. Before the establishment of the Commission it was from, or through, the Lord Advocate that proposals for such reform emerged, and he maintained the Law Reform Committee (which still exists) to advise him in these matters. Under the Law Commissions Act 1965 (c. 22) the establishment of the Scottish Law Commission is a joint responsibility of the Secretary of State and the Lord Advocate and the reports of the Commission are addressed to both Ministers. It is usually the Lord Advocate's Department who are consulted by the Foreign Office on the Scottish interest in the work carried on, with a view to international harmonisation, by such bodies as the Hague Conference, the Rome Institute, the Council

*In the pre-Union Parliament of Scotland (at least after 1661) the Lord Advocate was generally a member *virtute officii* (Rait, *Parliaments of Scotland*, page 280 et seq.); and in the Westminster Parliament he was until 1962 almost invariably an (elected) member of the House of Commons. The present Lord Advocate is a member of the House of Lords.

of Europe, and the United Nations Legal Organisation. In relation to the work of the Inter-Governmental Maritime Consultative Organisation the Lord Advocate's Department is consulted by the Board of Trade.

19. In relations between the Government and the legal profession the Lord Advocate is normally the channel through which any discussions on a Ministerial level are conducted with the heads of the professional organisations, though on the official level it is generally the Secretary of State's officers who are involved.

Miscellaneous

20. There is one non-legal function of a ministerial character which still appertains to the Lord Advocate, namely that of advising the Crown, as a member of the Scottish Universities Committee of the Privy Council, on the content and form of university charters and ordinances and other connected matters coming before that Committee. The Lord Advocate has also some responsibility—as the principal Scottish Law Officer—in connection with claims to pre-Union Scottish peerages, though it has been represented by a former Attorney-General that the duty of advising the Crown, and subsequently assisting the Committee for Privileges of the House of Lords, lies primarily with the Attorney in relation to these claims as well as in relation to claims to peerages of Great Britain and of the United Kingdom. The status of the Lord Advocate in these matters is thus obscure. Finally under this heading, mention may be made of the duties which fall to the Solicitor-General, in terms of his commission, in relation to the Church of Scotland. These are, however, in modern practice ceremonial in nature and arise only during the period in each year when the General Assembly of the Church is in session.

The Lord Advocate's Department

21. On all matters except the conduct of litigation and those concerned with prosecutions and the public interest the Lord Advocate is assisted by a small staff known collectively as the Lord Advocate's Department and headed by a Legal Secretary. Like the Advocates-depute mentioned in paragraph 7 the members of this staff are members of the Bar and thus qualified professionally as lawyers; but, unlike the Advocates-depute, they are also permanent civil servants. Besides assisting the Lord Advocate the members of the Department act as the Parliamentary Draftsmen for Scotland, in which capacity their duties and responsibilities are similar to those of the (English) Parliamentary Counsel to the Treasury. It is because of the parliamentary nature of this work—which is now the Department's principal function—that the Department is stationed in London. The Department also provides day-to-day legal advice for those Departments which have no whole-time Scottish legal adviser of their own.

Co-operation with English Departments

22. The work of the Lord Advocate and his Department touches on that of English Departments chiefly at three points. Firstly, when questions arise as to the interpretation of some common statutory provision or as to the legality of some Government action relating to both Scotland and England it is usually necessary to obtain the opinions of all four Law Officers of the Crown and this calls for conference between them. Secondly, consultation with the Lord Chancellor's Department and the Legal Adviser to the Foreign Office is required

in relation to the work of the agencies concerned with the international harmonisation of law. And finally the work of the Scottish Parliamentary Draftsmen requires close co-operation with that of the Parliamentary Counsel to the Treasury in relation to the drafting of Bills intended to affect the law on both sides of the Border.

July, 1969.